

TOWN OF DUNSTABLE



ZONING BYLAWS
November 2005 Edition

TOWN OF DUNSTABLE ZONING BYLAWS CHRONOLOGY OF EVENTS

| Date | Event | Zoning Bylaw Change |
|--------------------|----------------------|---|
| May 1947 | | Zoning Bylaw adopted |
| September 16, 1947 | Approval | Attorney General approval of Zoning Bylaw |
| February 26, 1973 | Annual Town Meeting | Amendment concerning camping districts |
| September 4, 1974 | Special Town Meeting | Increased square foot requirements for buildable lots |
| April 18, 1978 | Annual Town Meeting | Amended zoning of lot #154-3 as shown on Assessors Map |
| June 16, 1986 | Special Town Meeting | 1986 Proposal Adopted |
| September 16, 1987 | Approval | Attorney General Approval of new zoning by law |
| April 11, 1988 | Annual Town Meeting | Amendment in 11.3.1 requiring minimum of 40,000 contiguous square feet exclusive of wetlands for each residential lot; Adopted Section 6.6 "Open Space Development" |
| September 6, 1988 | Approval | Attorney General approval of 11.3.1 amendment and 6.6 |
| May 13, 1991 | Annual Town Meeting | Amended exemptions from earth removal regulations in Section 15 clarifying removal allowable in subdivisions & Developments; Provision added to Section 11 Development Rules & Regulations for sub-division phasing |
| July 17, 1991 | Approval | Attorney General approval of amendments to Section 11 and Section 15 |
| May 11, 1992 | Annual Town Meeting | Amendment and clarification of Section 6 provisions for uses permitted in R-1 Single Family District under article #23 |
| June 15, 1992 | Approval | Attorney General approval of amendments to Section 6 |
| May 9, 1994 | Annual Town Meeting | Amendment of Section 11.3.3 clarifying frontage requirements and addition of Section 11.7. describing provisions for acceptable BACKLAND LOTS |
| August 16, 1994 | Approval | Attorney General approval of amendment to Section 11.3.3 and additional Section 11.7. |
| May 8, 1995 | Annual Town Meeting | Amendment of Section 11.7. establishing a special permit procedure & guidelines for BACKLAND LOTS |
| June 6, 1995 | Approval | Attorney General approval of Section 11.7 |
| May 12, 1997 | Annual Town Meeting | Amendment and additions to Section 11.7 backland lots, addition to Section 6.6.3(g) Open Space Development & addition of new definition in Section 20 for "Land Unsuitable for Development" |
| August 4, 1997 | Approval | Attorney General's approval of amendments to Section 6.6.3(g) and 11.7 and additions to 11.7 and Section 20 |
| May 10, 1999 | Annual Town Meeting | Amendment and additions to Section 3. Establishment of Districts and Section 14.5a Preservation of Landscape & addition of a new section - Section 21 Commercial Telecommunication Towers |
| September 2, 1999 | Approval | Attorney General's approval of amendments to Section 3, Section 14.5a and the new Section 21. |
| May 8, 2000 | Annual Town Meeting | Amendment to Section 5, New construction and new uses; Section 15.2.1 Floodplain District and Section 16 definitions |
| July 26, 2000 | Approval | Attorney General's approval of amendments to Section 5 and Section 15.2.1. |
| May 14, 2001 | Annual Town Meeting | Addition of new section – Section 11.8 Growth Limitation |
| August 30, 2001 | Approval | Attorney General's approval of Section 11.8 |

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| May 15, 2002 | Annual Town Meeting | Addition of new Section 6.7 Senior Residential Multifamily Development; amendment to § 15.1.2 General Regulations and new § 20.20 Wetlands definition |
| August 26, 2002 | Approval | Attorney General's approval of ATM 2002 zoning amendments |
| May 10, 2004 | Annual Town Meeting | Amendment to Section 1, Purposes; establishment of new Mixed Use District – see Sections 3 and 23; amendment to Section 6.7 to include Uses Permitted by Special Permit of the Planning Board including provisions for Bed & Breakfast Establishments; amendment of Section 15.2.2. (b) providing for a Special Permit procedure before Planning Board in respect to certain activities in the Floodplain Overlay District |
| July 12, 2004 | Approval | Attorney General's approval - ATM 2004 zoning amendments |
| May 9, 2005 | Annual Town Meeting | Amendment to Section 13 providing for temporary signs and Section 23 amending density provisions for the Mixed Use District. |
| August 16, 2005 | Approval | Attorney General's approval – ATM 2005 zoning amendments |

Town of Dunstable Zoning Bylaws
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ZONING BYLAW OF THE TOWN OF DUNSTABLE

SECTION 1. PURPOSES. Dunstable's character is defined by its rural quality including narrow roads, scenic landscape, agricultural uses, low density and appropriately sized housing, water quality and water bodies, open space, and diversity of housing types. The purpose of this Zoning Bylaw (the "Bylaw") is to promote the health, safety, morals, convenience and general welfare of residents of the Town of Dunstable (the "Town") while maintaining Dunstable's character, protecting its natural resources, and promoting affordable housing for Dunstable residents; to provide safe, efficient traffic flow to, from and along the streets; to lessen congestion in the streets; to lessen the danger from fire and flood; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to conserve energy; to preserve and increase the amenities of the Town; to conserve natural conditions and increase resources; to conserve and protect public and private water supply, including ground water; to conserve and protect storage areas for seasonal or periodic high water; to conserve and protect public and private bodies of water and water courses; to facilitate the adequate provision of transportation, drainage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the prevention of blight and pollution of the environment; to preserve historic sites; to improve and beautify the Town by encouraging the most appropriate uses of land within the Town; to protect the community from the effects of unsuitable development; to avoid unsuitable traffic on residential streets; to facilitate future reuse and redevelopment of property; and to separate or otherwise isolate property uses which may be conflicting or incompatible.

In accordance with these purposes, the use, construction, erection, establishment, movement, repair, alteration, enlargement, height, location and occupancy of buildings and structures and the uses and occupancy of all land in the Town of Dunstable are hereby regulated and restricted as hereinafter provided, and no development use or occupancy of land shall be carried on except as permitted herein.

SECTION 2. ZONING MAP. The map entitled Zoning Map of Dunstable, Mass., ("the map"), and filed with the Town Clerk, together with amendments thereto and all explanatory notes thereon, are hereby made a part of this bylaw and incorporated herein by reference. The map consists of an entire map of the Town of Dunstable indicating the location of all Zoning Districts listed in Section 3 hereof, together with six detail maps as appendices, showing the location of all of said Districts, excepting the R-I Single Family Residence District, in relation to lots as shown on the Dunstable Assessors Maps.

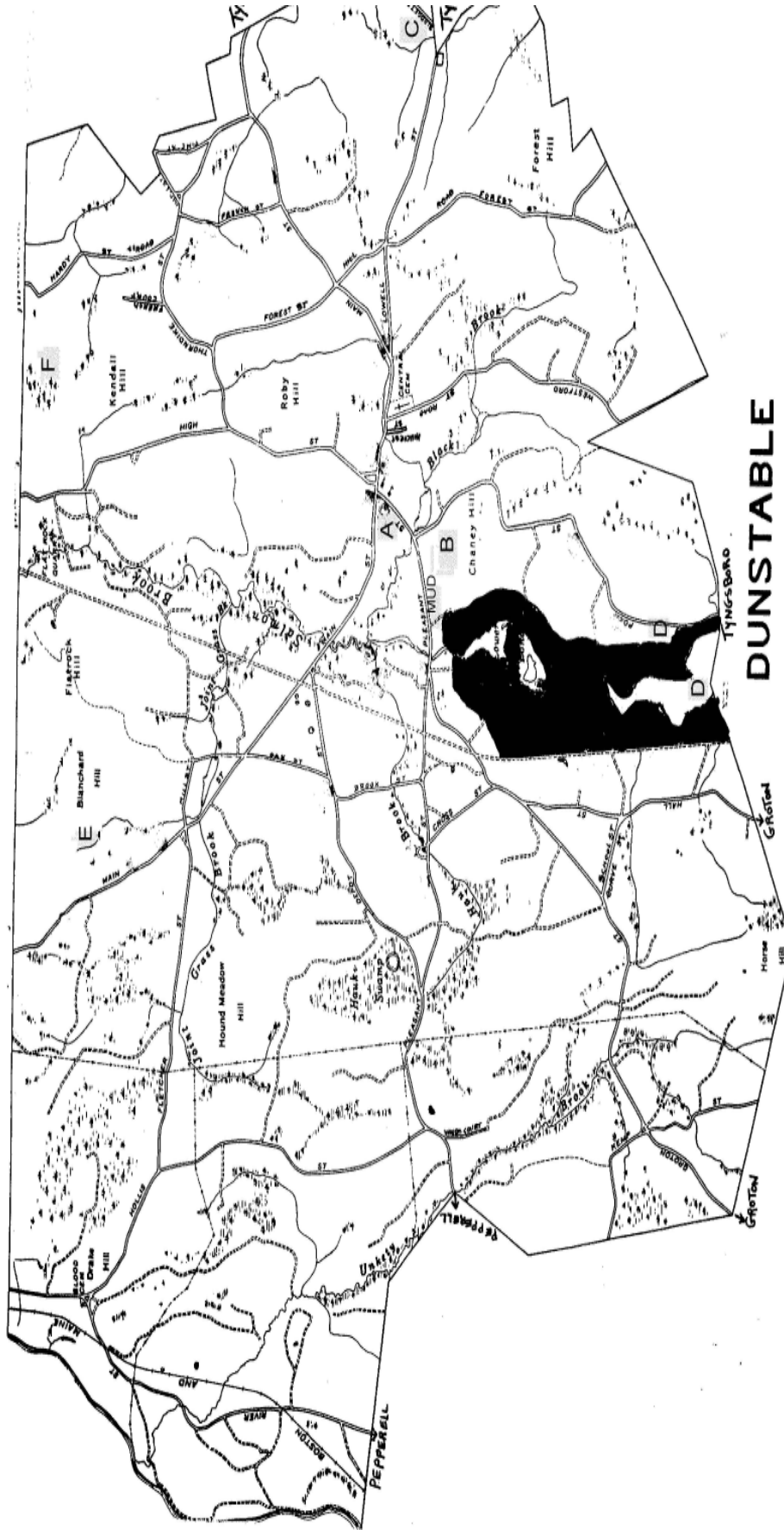
2.1. Boundaries of Districts.

2.1.1. Where the boundary lines are shown upon the map as coincident with the sidelines of public and private ways or railroads, said sidelines of such ways, etc., shall be the boundary lines. Where such lines are shown within the sidelines of such ways, etc., the center lines thereof shall be the boundary lines. Where such lines are shown to be coincident with the margin of any water course or body of water, the boundary shall be considered to be the low water mark thereof.

2.1.2. In all cases which are not covered by other provisions of this section, the location of boundary lines shall be determined by the distance in feet and/or meters, if given, from other lines upon said map, by the use of identifications as shown on the map, including references to Assessors' Maps and public land records, or by the scale of the map and its appendices; provided that, locations of buildings or other structural features on the maps are included as a matter of convenience and for reference, and are not intended as monuments superseding the other information on the maps for purposes of establishing the location of boundary lines. In the event that the information provided is insufficient or inaccurate to locate district boundaries, the boundaries shall be interpreted by the Building Inspector.

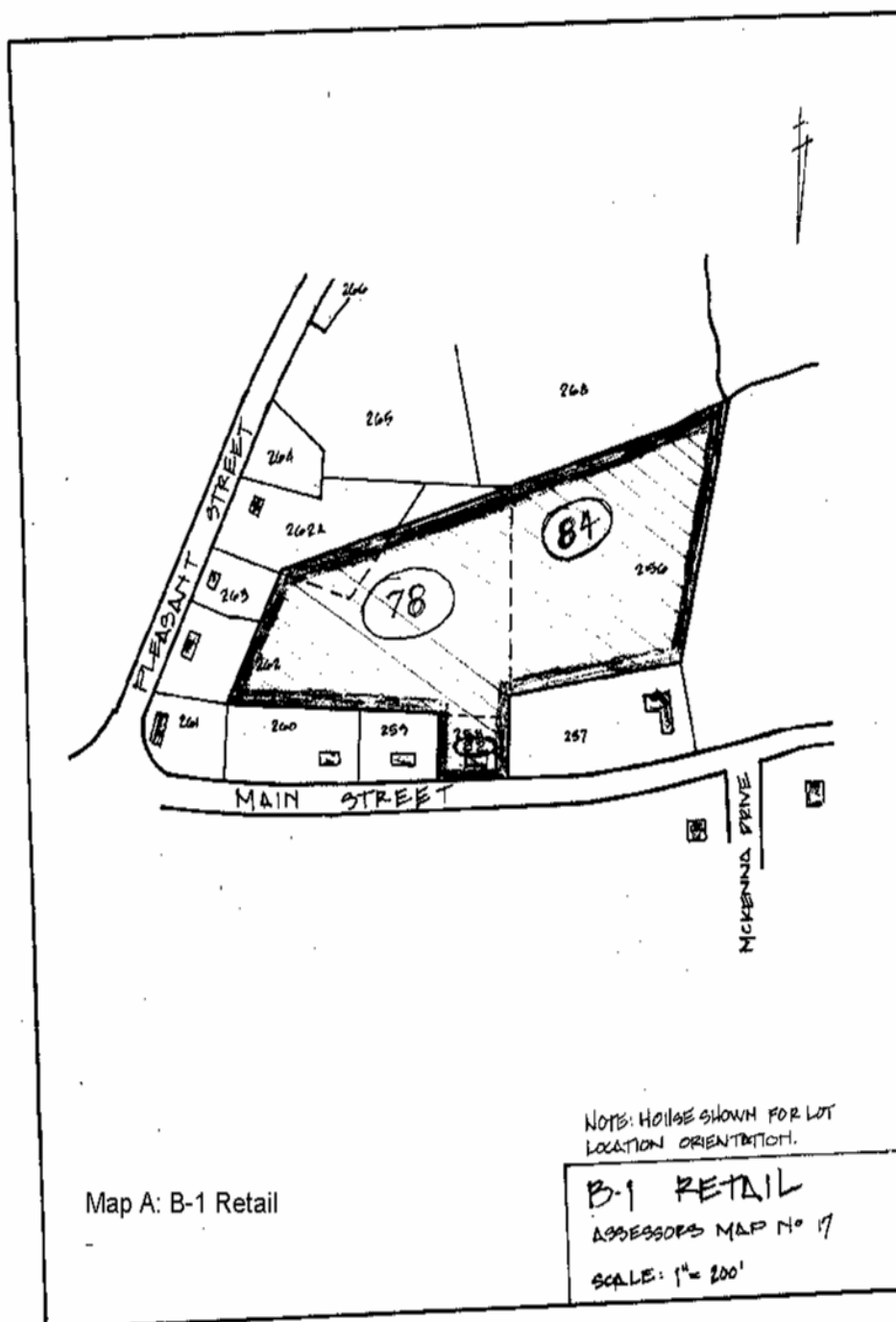
2.1.3. Where a district boundary line (other than a boundary line for an overlay district if any) divides any lot existing at the time such line is adopted, the regulations for the less restricted portions of such lot shall extend no more than twenty (20') feet (6.096 m) into the more restricted portion, provided the lot has at least twenty (20') feet (6.096 m) of frontage in the less restricted district.

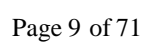
2.1.4. Any change of the Zoning Map shall constitute an amendment of this bylaw and the procedure for making such a change shall conform to such requirements for amending this bylaw as are provided in applicable law.

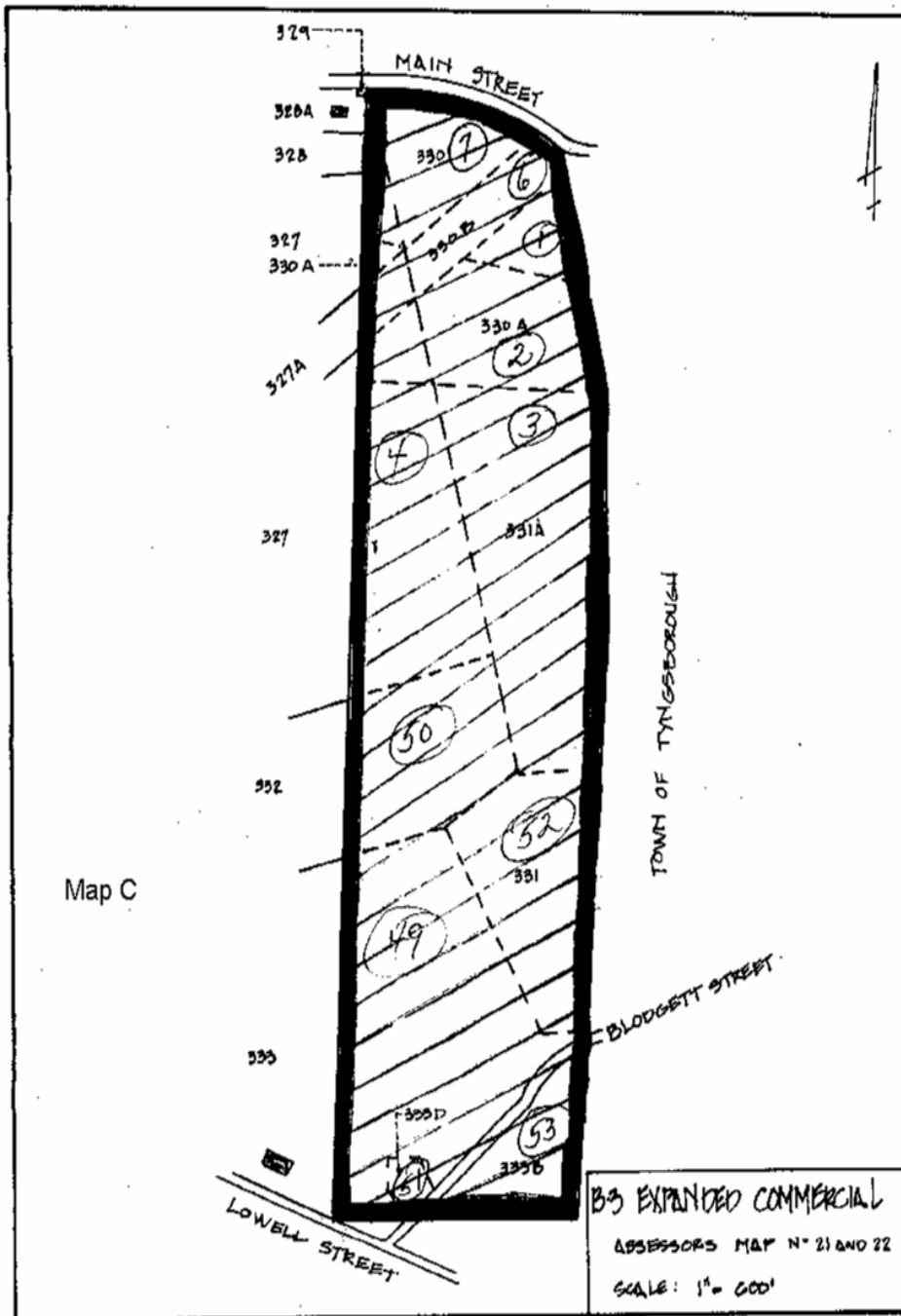


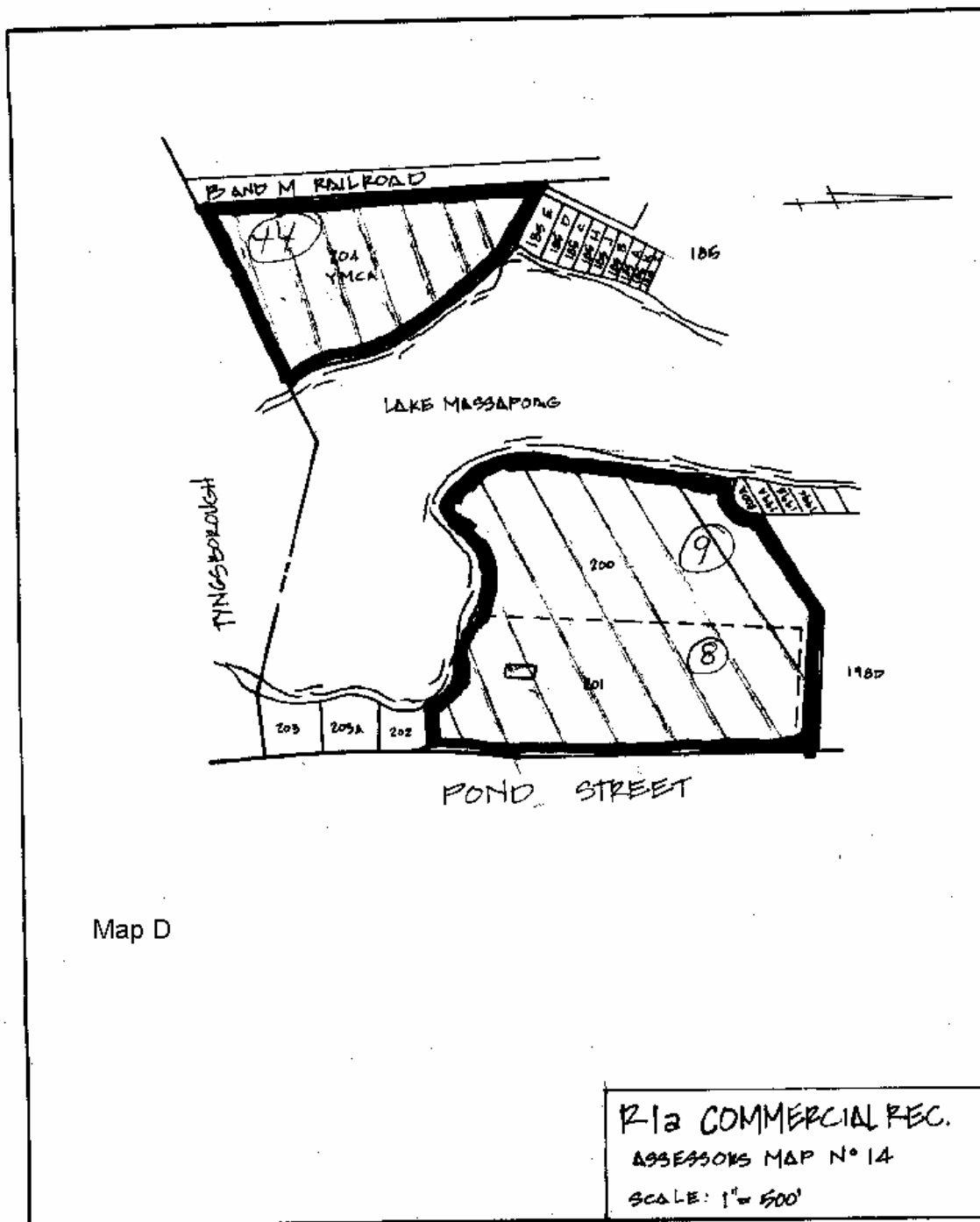
DUNSTABLE

Town of Dunstable Zoning Map



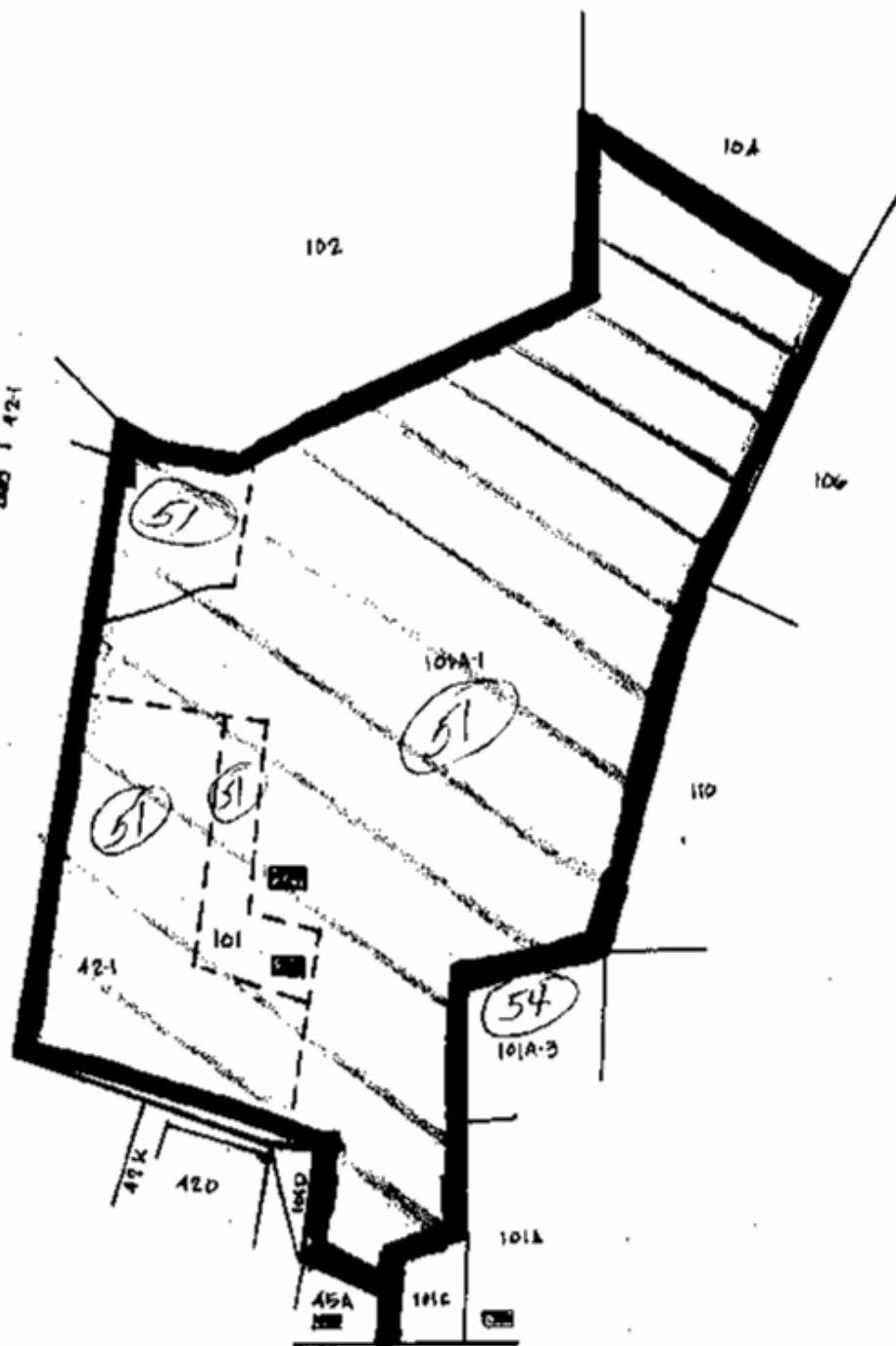






CENTURY WAY

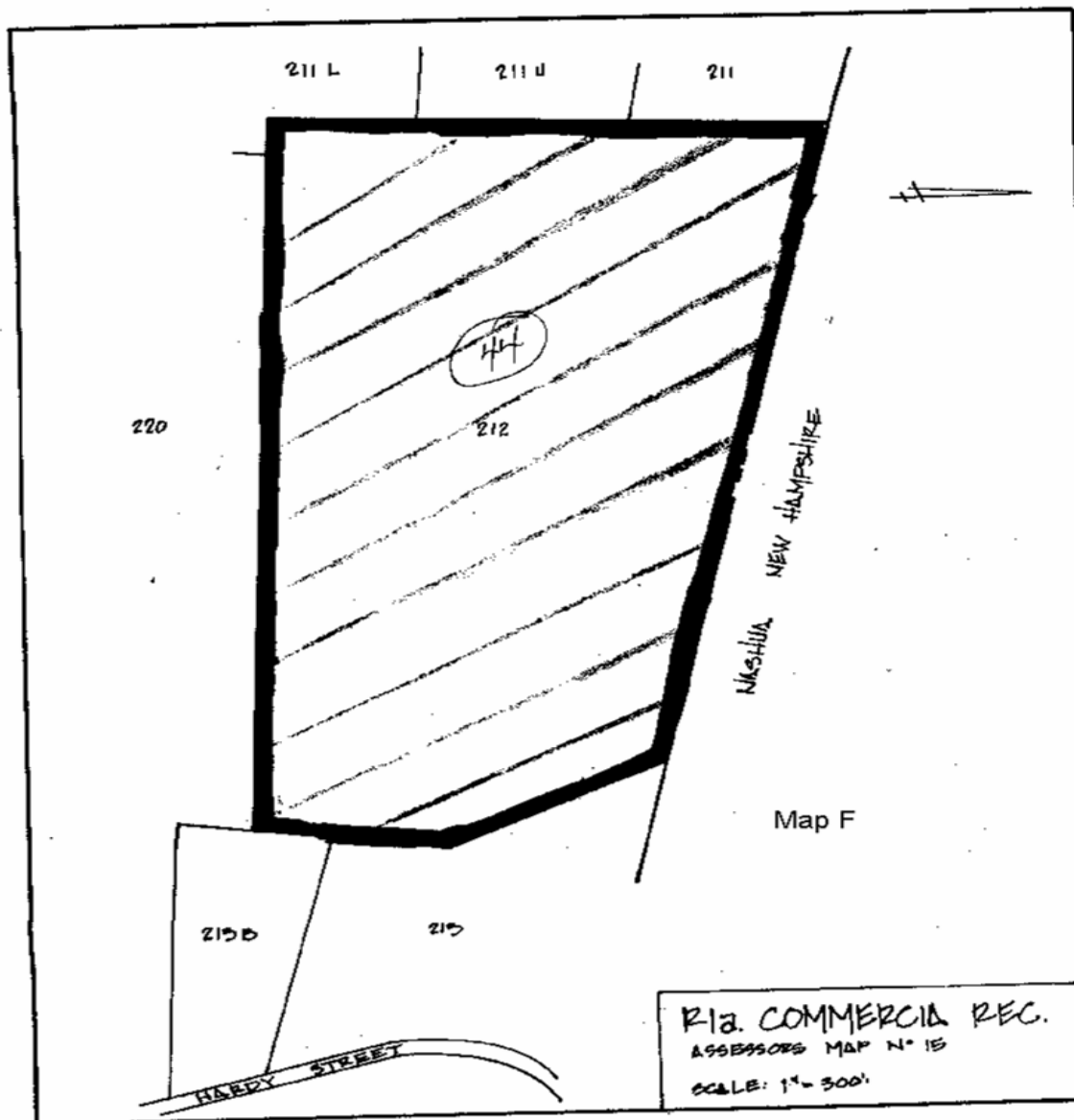
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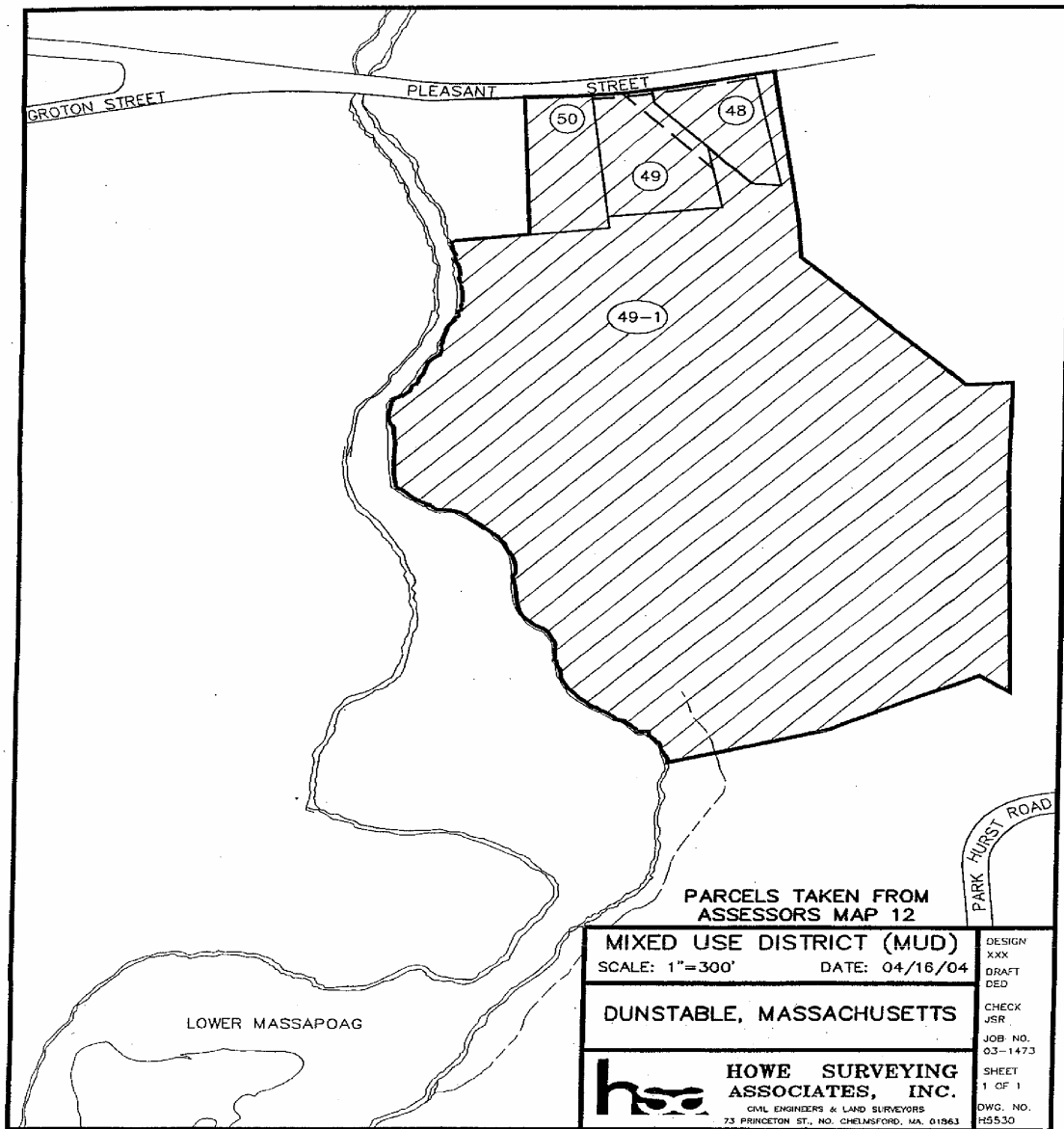


MNH STREET

Map E

R12 COMMERCIAL REC
ASSESSORS MAP No 10
SCALE: 1" = 500'





SECTION 3. ESTABLISHMENT OF DISTRICTS

The Town of Dunstable is hereby divided into six (6) types of districts to be known as:

| | | |
|------|----------------------------------|--------------|
| R-1 | Single Family Residence District | (Section 6) |
| R-1a | Commercial Recreational | (Section 6a) |
| R-2 | General Residence District | (Section 7) |
| B-1 | Retail Business District | (Section 8) |
| B-2 | Service Business District | (Section 9) |
| B-3 | Expanded Commercial District | (Section 10) |

3 a Overlay Districts

Commercial Telecommunication Towers

An overlay district known as the Tower Overlay District is hereby established. The district will overlay and be coincident with the Commercial/Recreation, General Residence. Single Family Residential. Retail Business. Service Business and Expanded Commercial.

3. Mixed Use District

An overlay district known as the Mixed Use District is hereby established. The district will consist of those areas bounded and shown on a map entitled "Mixed Use District (MUD)" dated April, 2004, to be incorporated in the Dunstable Zoning Bylaw, which map is on file in the Town Hall, Planning Board Office, where it may be inspected. The District will overlay and be supplementary to the underlying districts.

SECTION 4. NON-CONFORMING USES

- 4.1. Any use or structure lawfully existing at the time of the adoption of the Town's Zoning Bylaw or any amendment thereto, and any use or structure lawfully begun, or as to which a building or special permit has been issued, before the first publication of notice of the public hearing on this amendment to such bylaw or any future amendment thereto, may be continued or completed, although such structure or use does not conform to the provisions hereof or of such amendment; provided that;
 - (a) Construction or operations pursuant to such a building or special permit shall conform to the provisions of this bylaw as amended unless the use or construction is commenced within a period of six (6) months after issuance of the permit and, in cases involving construction, unless such construction is completed as continuously and expeditiously as is reasonable;
 - (b) Whenever a non-conforming structure, lot or use has been made conforming, it shall not thereafter revert to any such non-conforming structure, lot, or use, subject nevertheless to the provisions of subsections (d) and (e) of this section.
 - (c) Wherever a non-conforming use has been abandoned, it shall not, be re-established and any future use shall conform to the Zoning Bylaw and any amendment thereto. In any event, for purposes of this section, such use shall be deemed abandoned which has been discontinued for a period of two (2) years.
 - (d) No building or other structure put to a non-conforming use which is destroyed or damaged by fire or other cause, or demolished to the extent, in any of such cases, of more than one-half (1/2) of its replacement value at the time of said damage or demolition as determined by the Building Inspector, who may for these purposes consult qualified appraisers, may be rebuilt for the purpose of reestablishing the non-conforming use, in full or in part, unless the Board of Appeals finds with respect to such reconstruction or repair, that it will not be substantially more detrimental to the neighborhood, with reference to the purposes of this bylaw, than the use existing prior to such damage or destruction.
 - (e) Any reconstruction or repair of a partially destroyed, demolished or damaged structure put to a non-conforming use must be commenced within one (1) year of such damage or destruction, and the reconstruction completed and the structure occupied within two (2) years of such damage or destruction.
- 4.2. A non-conforming single or two-family residential structure may be the subject of alteration, reconstruction, extension or structural change provided that such alteration, reconstruction, extension or structural change does not increase the non-conforming nature of such structure.
- 4.3. Any other lawful pre-existing non-conforming structure or use, the change or alteration of which is not otherwise permitted as a matter of right by the provisions hereof, may be extended, altered, reconstructed or repaired, provided that in each case, the Board of Appeals finds that such extension, alteration, reconstruction or repair is not more detrimental to the neighborhood than the existing non-conforming structure or use. Nothing in this subsection shall be construed per se to authorize additional non-conforming uses that would otherwise require a use variance. In addressing the

question of detriment to the neighborhood, the Board may consider, among other factors, traffic, external appearance, noise, glare, dust, vibration, and the effect on the values of other properties.

- 4.4. A single-family or two-family residential lot which complied with minimum area, frontage, width, yard and depth requirements in effect at the time such lot was established in separate ownership from adjoining land as shown by public land records may be used in accordance with such requirements and need not comply with any subsequently adopted bylaw or amendment which increases the area, frontage, width, yard or depth requirements applicable to such residential lot, provided that the status of such lot as in separate ownership has continued since its establishment, and provided further that such lot has the minimum area, frontage, yard and depth requirements, if any, provided in the Massachusetts General Laws for lots of this status. However, two (2) or more contiguous lots or parcels of land in the same ownership which, when taken separately or in any particular combination, fail to comply with the minimum area, frontage, width, yard or depth requirements of this bylaw, shall be considered to have merged for the purposes of this bylaw; provided that such lots may be used or sold separately insofar as they contain structures that were lawfully constructed under the laws in effect at the time of their construction; and provided further that such merger shall not be deemed to affect lots which are effectively exempt therefrom under provisions of the Massachusetts General Laws.
- 4.5. No lot on which a building is located in any district, or which is otherwise used or developed in such a manner as to be within the purview of the dimensional provisions of this bylaw, shall be reduced or changed in size or shape so that the building lot or use fails to comply with such dimensional provisions; or if such building, lot or use already fails to comply with said provisions, such reduction or change would bring about a greater degree of non-compliance with said provisions. This prohibition shall not apply, however, in cases of takings for public purposes.

SECTION 5. NEW CONSTRUCTION AND NEW USES. No new structure shall be erected, constructed, established, altered, repaired, enlarged or moved, and no land shall be put to any use or shall be occupied except in conformity with the requirements, character and conditions laid down for each of the several districts established by this bylaw. Any use not specifically listed herein or otherwise permitted in a district shall, to the extent permitted by law, be prohibited, subject however to such provisions of applicable law as perforce limit the scope or authority of the zoning ordinances or bylaws; and subject further to the provision that municipal uses shall be permitted in any district. Any municipal use which would not be permissible in a district except for its municipal status shall require a special permit of the Planning Board, the application for which may require in the discretion of such Board supplementary information in the nature of a site plan as provided in Section 14 of this bylaw; and in the event that the municipal use is such that consideration by the Planning Board would be inappropriate by reason of a particular benefit that would accrue primarily to the Planning Board, such application shall be referred to the Board of Selectmen who shall act in place of the Planning Board.

SECTION 6. R-1 SINGLE FAMILY RESIDENCE DISTRICT. The R-1 District is intended primarily as a district of single family homes with not more than one dwelling unit together with reasonable and customary accessory buildings upon one lot.

6.1. Uses Permitted:

- (a) One (1) building containing one (1) dwelling unit used as a single family residence.
- (b) Rooming or boarding house for not more than three (3) lodgers.
- (c) Museums and libraries owned and operated by the town or by a public charitable organization with respect to which the town elects, appoints or approves the members of the governing board; and open parks, playgrounds, conservation areas, water supply areas and land owned and operated for the public enjoyment or service by a public or quasi-public agency.
- (d) Orchards, nurseries, truck gardens, and farms operated for agricultural, floricultural or horticultural purposes, or for the raising of cattle, horses and other ordinary domestic animals, but not including piggeries or farms operated in substantial part for disposal of garbage, sewage, offal or renderings; greenhouses for private use of the occupants of the premises; keeping of pets and farm animals for the use of the residents or occupants of the premises; the sale or offering for sale of farm produce by an owner or the resident tenant of land in the town is permitted providing that at least fifty-one percent (51%) of such produce is raised within the town, that any farm stand structure must be temporary in nature and removed at the end of the selling season of the crops grown in town for the purpose of sale (otherwise, as an Accessory Building, it must conform to the requirements of Section 11-5) that any farm stand must be setback at least thirty (30) feet from the roadway, and that adequate off-street parking must be provided. Nothing in this subsection shall be construed to prohibit persons from keeping not more than two (2) pigs on their own premises, provided that the premises remain clean and that no odors associated with the pigs or the keeping thereof are detectable outside property lines. In the event of litters, owners shall dispose of same within a reasonable time, not to exceed sixty (60) days, in order to comply with this subsection.
- (e) Accessory uses on the same lot, including by way of illustration but not limited to: private garages, stables, greenhouses, barns, and other buildings and enclosures; provided in all cases that such accessory uses are entirely incidental and secondary to the primary permitted uses on said premises.
- (f) Private non-commercial radio towers, windmills, or similar structures, provided that the height of such shall not be greater than the distance from the base of the tower to the nearest property lines, and in no event greater than one hundred (100') feet; and provided further that no offensive noise, vibration, electrical interference, smoke, dust, odor, heat, glare or unsightliness is produced.
- (g) Customary home occupations, as described hereinbelow, in a portion of a residential premises by a resident thereof, upon issuance of a permit by the Building Inspector which shall be available by right upon demonstration of compliance with the conditions and requirements of this subsection, and which permit shall be revocable by the Building Inspector in the event of use of the premises inconsistent with the

permit and with the requirements of the Zoning Bylaw.

- i. Customary home occupation shall include but not necessarily be limited to the following:
 1. An office for the conduct of a profession or similar business, including but not limited to, the office of a physician, dentist, lawyer, engineer, architect, real estate or insurance agent, or consultant.
 2. A studio or workshop, including but not limited to that of an artist, photographer, dressmaker, milliner, craftperson of handmade items, musician or tutor where regular instruction is limited to not more than three students at one time.
 3. An office or workshop for the conduct of a trade, including but not limited to that of a builder, carpenter, painter, plumber, or mason and further permitting in connection therewith incidental work and storage in connection with the off-premises trade.
 4. Day care.
- ii. Uses and occupations permitted under this subsection shall in every case comply with the following conditions and requirements and failing such compliance shall be deemed to require permission of the Board of Appeals in accordance with Section 62. hereof:
 1. such use is clearly incidental and secondary to the use of the premises for dwelling purposes;
 2. not more than one (1) person at any time other than residents of the premises is regularly employed therein in connection with such use;
 3. no offensive noise, vibration, smoke, dust, odor, heat, glare or unsightliness is produced, nor may the home occupation involve any process which results in the discharge of any hazardous material (as defined in Massachusetts General Laws, Chapter 21E as amended) into the ground or into any body of surface water. Any home occupation which will involve the use, production or storage of a hazardous material shall list such materials in the application for approval, The listing shall be reviewed by the Building Inspector and if deemed to be a potential hazard. may serve as justification for denial of the application.
 4. there is no public display of goods or wares and there are no signs except as permitted in Section 13;
 5. there is no exterior storage of material or equipment (including the parking of more than one (1) commercial vehicle) and no other exterior indication of such use nor any variation or alteration from the residential character and appearance of the premises;
 6. adequate off street parking spaces for employees and for visitors or patrons in connection with the home occupation is provided which does not substantially alter the appearance of the premises as a single family residence;

- 7. such use does not require the parking of more than four (4) vehicles used by persons engaged in the occupation, clients, customers, or patients on a regular basis.
- iii. No merchandise and/or stock, commodities or parts shall be offered for sale on the premises with the exception of agricultural products (section 6.1.(d)) or items produced on site in the nature of crafts products such as pottery, crafts, weaving artwork etc.
- iv. The maintenance or repair of automobiles or motor vehicles shall not be permitted as a home occupation.
- v. The Building Inspector may refer any applicant for a permit described in this section to the Board of Appeals where there is a doubt about the character of any occupation as a customary home occupation or about compliance with the conditions of this section, and the matter shall thereupon be treated as an application for a special permit under Section 6.2; but in the event the Board of Appeals finds the activity in question to be customary home occupation, the applicant shall be entitled to a permit under this section, subject to the conditions and requirements hereof.

6.2. Uses Permitted by Special Permit of the Board of Appeals. (In cases of applications under this subsection, the Planning Board may provide written advice to the Board of Appeals, which the Board of Appeals shall consider in reaching any decision; furthermore, the Board of Appeals may refer any such application to the Planning Board or any other board or agency of the town for review, in which event such board or agency shall make such recommendations as it deems appropriate, and shall send copies thereof to the Board of Appeals and the applicant.)

- (a) use of land or structure by a public utility;
- (b) or country club and golf course;
- (c) commercial greenhouse on residential premises or on parcels of less than five (5) acres, provided that size limitations may be imposed thereon if necessary in order to render the installation harmonious with the surrounding neighborhood in regard to scale or visual dominance;
- (d) the raising and keeping of poultry on parcels in excess of five (5) acres, for purposes other than the use by the occupants of the residence, or the maintenance of dog kennels or stables for hire;
- (e) any museum or library not referred to in Section 6.1.(c) above;
- (f) the use of a dwelling or a portion of a building accessory thereto by a person resident on the premises for the sale of merchandise and/or stock, commodities or parts not created on sight may be permitted, provided that in all cases the provisions of 6.1.(g). ii. 1 through 7 must be met.
- (g) in order to facilitate and promote the welfare of families in Town, the use of a group of rooms in a single family residence as an apartment with its own kitchen and plumbing facilities for the use of a limited number of the family of one or more of the principle residents, such as their parents or children, provided that the Board makes the following findings:
 - i. The premises are being used as a principal residence by one or more persons related by blood or marriage to the occupants of the apartment.
 - ii. The apartment shall have its own separate entrance from the outside.
 - iii. The apartment shall have its own kitchen facilities and its own interior toilet facilities.
 - iv. Evidence verified in writing by the Board of Health (or its qualified agent), is submitted with, and as part of, the application for special permit, that there is available on the lot an adequate supply of drinking water and adequate provisions for sewage disposal.
 - v. The outside appearance of the premises shall remain that of a single family residence.
 - vi. The rooms shall have adequate provision for heat, in the judgement of the Board of Appeals.

The special permit shall be issued only if it contains the following limitations and conditions:

- vii. The number of residents of the apartment is limited to the number, not exceeding three (3), which the Board of Appeals finds to be reasonable in consideration of the adequacy of the facilities provided.
- viii. The premises continue to be used as principal residence by a relation or relations of the occupants of the apartment.
- ix. All turnaround and parking areas shall be provided on the lot.

Use and occupancy of any such apartment other than is authorized herein shall be grounds for revocation of any permit granted under this subsection.

6.3. No permit shall be granted to carry on any of the uses listed in Section 6.2. (a) through (g) in any structure not in existence on the date of approval of this bylaw or in any structure in existence on such date which is substantially altered after such date to accommodate such use, unless the structure conforms to the following development regulations:

(a) The minimum area of any lot shall be the *greater* of 87,120 square feet (8093.71 sq. m) or ten (10) times the total ground floor area of the structure or structures on such lot.

(b) Any structure and the lot on which it is located shall comply with the minimum height, frontage and yard requirements applied to the R-1 District, except that the Board of Appeals may, as a condition to granting the special permit, impose lower height restrictions and/or greater yard and frontage requirements if, owing to the size and character of the structure, such restrictions or requirements are appropriate to prevent or mitigate adverse or undesirable effects with regard to surrounding properties, including any diminution in the value thereof or the use and enjoyment thereof,

6.4. In connection with the application for a special permit for any use which is subject to the additional development regulations of subsection 6.3. above, the applicant shall submit a complete site plan (see Section 14) with the elevations of the land and the structure proposed to be located thereon to the Board of Appeals, The requirements of the preceding sentence may be modified upon specific application to the board in appropriate cases requiring less information. Subject to any such diminished requirement as shall be determined by the board, no permit for any such use shall be valid unless such site plan and elevations are specifically incorporated by reference in such permit and unless the structure, when built, conforms to such site plan and elevations are specifically incorporated by reference in such permit and unless the structure, when built, conforms to such site plan and elevations,

6.5. R-1 Development Regulations-Standard Development

Refer to Section 11.

6.6. Development Regulation - Open Space Development

- 6.6.1. For the purpose of promoting the more efficient use of land and the preservation of its natural features, an owner or owners of a tract of land situated within the R-1 Single Residence District, or a duly authorized agent of such owner or owners, may make application to the Planning Board for a special permit exempting such land from the lot area and frontage, yard and width of lot requirements of Section 11 and from the requirements of Section 6.1.(a) in favor of the requirements of this section relating to open space development. Such application shall be accompanied by a site plan in accordance with Section 14 of this bylaw.
- 6.6.2. Application under this section shall be submitted in accordance with the requirements of the Massachusetts General Laws and any rules and regulations of the Planning Board in connection with special permits. The Planning Board shall give notification of such application to the Conservation Commission, the Board of Health and the Board of Selectmen, and refer the application to any of the foregoing boards or any other board or agency of the town, for review. Any such board or agency to which referral is made for review shall carry out such review and submit a report giving such recommendations as it deems appropriate, and send copies thereof to the Planning Board and to the applicant.
- 6.6.3. After due consideration of the reports and recommendations of any referral board, and after notice and public hearing, the Planning Board may grant a special permit for such open space development, provided that
- (A) It finds that the proposed open space development plan is in harmony with the purposes of this section;
 - (B) The area of the tract of land is not less than fourteen (14) acres;
 - (C) The total number of building lots in an open space development shall be no greater than the number of building lots that would otherwise be allowed in the district in which the land is located. In making the determination of the number of allowable lots, the board shall require that the applicant provide evidence, satisfactory to the board, that the number of lots shown on the proposed open space development plan is no greater than the number of lots that could otherwise be developed, taking into consideration any limitations upon the buildability of the land arising from the character and condition of the land, the subdivision control laws including the rules and regulations adopted thereunder by the Dunstable Planning Board, other provisions of this bylaw, or other applicable laws, bylaws or ordinances.
 - (D) Each of the lots shown on the plan has reasonable frontage on a public or private way deemed adequate by the Planning Board.
 - (E) Insofar as possible, each lot shall be of a size and shape as shall provide a building site which shall be in harmony with the natural terrain and other features of the tract;
 - (F) The front and side and rear yards of each lot shall be shown on the site plan by

dashed lines indicating the area within which a building may be sited;

- (G) Provision shall be made so that at least thirty-five (35%) percent of the land area of the tract, exclusive of land set aside for road area, shall be open land, and that the open land shall include all land not dedicated to roads or lots; Furthermore, a portion of such open space free of land unsuitable for development as defined in Section 20 shall constitute at least thirty-five (35%) percent of the land area of the tract.
 - (H) Provision shall be made so that such open land shall be conveyed to and owned by:
 - 1. The Town, to be held for park, conservation or open space use; or
 - 2. Any not for profit land trust or non-profit or charitable corporation whose purpose in owning land is dedicated to conservation, wildlife protection, recreation and further that such trust or charitable corporation accept same subject to appropriate restrictions on said land; or
 - 3. Any association of the owners of the land that may be approved by the Planning Board, with provision for limited easements for recreational use by residents of the town, provided that the town shall have sufficient rights to enable it to enforce compliance with the restrictions imposed by the Planning Board as conditions of its special permit;
 - (I) In any case where such open land is not conveyed to the town, a restriction enforceable by the town shall be recorded, providing that such land be kept in an open or natural state, and not be built upon for residential use or developed for accessory uses such as parking or roadway;
 - (J) All dwelling units shall be in detached buildings and there shall not be more than one dwelling unit in a building.
- 6.6.4. The Planning Board may, in appropriate cases, impose such further conditions, safeguards and limitations as are reasonably ordered to the achievement and protection of the general purposes and intent of the bylaw and this section.
- 6.6.5. In connection with issuing or denying a special permit under this section, the Planning Board shall issue in the manner provided by applicable law and shall file with the Town Clerk a written decision which shall include as a minimum:
- (A) A determination of the area of the tract usable for residential construction under this section;
 - (B) A determination of the number of lots upon which dwellings could be constructed without regard to this section, the calculations to be made in accordance with the provisions of Subsection 6.6.3.(c) hereof:

- (C) A general description of the neighborhood in which the tract lies and the effect of the plan on the area;
- (D) The relation to the plan to the long range plans or the master plan of the town, if any;
- (E) The extent to which the plan is designed to take advantage of the natural terrain of the tract;
- (F) The extent to which the proposed open land is of size and shape and has adequate access to benefit the town;
- (G) In the event that the Planning Board grants the special permit, the finding required by Section 6.6.3. (a) hereof;
- (H) In the event that the Planning Board denies the special permit, its reason for doing so;
- (J) In the event that the Planning Board's decision disagrees with the recommendations of any other board or agency of the town which has submitted a report pursuant to this section, its reasons therefor, stated in writing.

Section 6.7. Uses Permitted by Special Permit of the Planning Board

- 6.7.1. Senior Residential Multifamily Development For the purpose of providing a variety of housing opportunities within the Town for people who are 55 years of age and older while promoting maximum efficiency in the use of land and the preservation of its natural features, in a context of encouraging better overall site planning, protecting the value of real property, promoting the more sensitive siting of buildings and other structures, preserving the natural and scenic amenities of the property, fostering provision for suitable areas for both active and passive recreation, and assuring a high level of environmental protection, an owner or owners of a tract of land situated within the R-1 Single Residence District, or a duly authorized agent of such owner, or owners, may make application to the Planning Board for a special permit for Senior Residential Multifamily Development (SRMD), exempting such land from the lot area and frontage, yard and width of lot requirements of Section 11 and from the requirements of Section 6.6.1.(a) in favor of the requirements of this section 6.7. relating to Senior Residential Multifamily Development. Such application shall be accompanied by a site plan in accordance with Section 14 of this bylaw, as well as specimen bylaws, rules and regulations required under subsection 6.7.3.(G), and sufficient information to demonstrate compliance with subsection 6.7.4.(A) through (G).
- 6.7.2. Application under this section shall be submitted in accordance with the requirements of the Massachusetts General Laws and any rules and regulations of the Planning Board in connection with special permits. The Planning Board shall give notification of such application to the Conservation Commission, the Board of Health and the Board of Selectmen; and may, in its discretion, refer the application to any other board or agency of the town, for review, including a Design Review Board which the Planning Board may and hereby is authorized to appoint for these purposes. Any such board or agency to which referral is made for review shall carry out such review and submit a report giving such recommendations as it deems appropriate, within forty-five (45) days of the submission or referral, and send copies thereof to the Planning Board and to the applicant.
- 6.7.3. After due consideration of the reports and recommendations of any referral board, and after notice and public hearing, the Planning Board may grant a special permit for such Senior Residential Multifamily Development (SRMD) provided that:
- (A) It finds that the proposed Senior Residential Multifamily Development plan is in harmony with the purposes of this section.
 - (B) The area of the tract of land is not less than fifty (50) acres.
 - (C) The total number of dwelling units in an SRMD shall be no greater than the number of building lots that would otherwise be allowed on the tract, multiplied by $1\frac{1}{4}$, and rounded to the next higher integer, subject to the bonus provisions of subsection 6.7.6., below. In making the determination of the number of allowable units in the SRMD, the board shall require that the applicant provide evidence, satisfactory to the Board, that the number of such units on the proposed SRMD plan is no greater than the number of lots that could otherwise be developed, taking into consideration any limitations upon the buildability of the land arising from the character and condition of the land, the subdivision control laws including the rules and regulations adopted thereunder by the Dunstable Planning Board, other provisions of this bylaw, or other applicable laws, bylaws or regulations.
 - (D) The SRMD plan meets the following density, structure and dimensional requirements in lieu of the requirements of Sections 6.1.(a) and 11:
 - (i) Density. The number of units permissible shall not exceed the number of units

ascertained pursuant to subsection 6.7.3.(C), above (subject to the bonus provisions of subsection 6.7.6.). For purposes of any SRMD, in order to be included in the calculations for density, or 6.7.3.(c), above, the land area must contain at least seventy-five (75%) percent dry land, and not more than twenty-five (25%) percent wetlands. Wetlands in excess of twenty-five (25%) percent of the entire parcel shall not be used for purposes of calculating density, but may be added to Open Space within the provisions of subsection 6.7.5(J), below.

- (ii) Structures. A SRMD may consist of any combination of single family or multifamily residential structures. A multifamily structure shall not contain more than five (5) dwelling units. The architecture of all multifamily buildings shall be residential in character, particularly providing gabled roofs, predominantly wood or other material of good quality and function which simulates the look and feel of wood siding, an articulated footprint and varied facades. Residential structures shall be oriented toward the street or way serving the premises and not the required parking area.
- (iii) Dimensional Controls. The following dimensional controls shall apply per building:

| REQUIREMENT | SRMD |
|-----------------------------|------------------------|
| Minimum Lot Area | Two (2) acres |
| Minimum Frontage | Two hundred (200) feet |
| Minimum Front Yard Setback | Fifty (50) feet |
| Minimum Side and Rear Yards | Forty (40) feet |

provided that the Planning Board may approve reduced dimensional requirements where it finds that such modified dimensions will more effectively achieve the purposes set forth in subsection 6.7.1, above.

- (iv) Buffer. A buffer area of one hundred (100) feet shall be provided at the perimeter of the property, except for driveways/roadways necessary for access and egress to and from the site; and two hundred (200) feet from all natural bodies of water one (1) acre or larger under normal conditions, and from all rivers or streams within the scope of or regulated under the Rivers Protection Act; provided, however, that existing structures and existing access roadways are exempt from the requirements set forth in this subsection (iv). No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal and ordinary maintenance. The Planning Board may waive or limit the buffer requirement if it determines that a smaller buffer may suffice to accomplish the objectives set forth herein.
- (E) The Planning Board finds that satisfactory provisions have been made and secured for Open Space within the project.
- (F) The Planning Board finds that sufficient provision has been or will be made to ensure that each of the dwelling units is so restricted that at least one person fifty-five years of age or older (the "Senior Resident") is both an owner and a resident. A restriction to such effect, approved by counsel to the Planning Board, and having the longest available enforceability under applicable law, shall be recorded in the chain of title, and shall be enforceable both by an association of owners and by the Town of Dunstable. The restriction shall provide that insofar as any unit is occupied for dwelling purposes at all, it shall be occupied by at least one Senior Resident. In the event that any unit

ceases to be occupied by a Senior Resident by reason of death, reasonable time shall be allowed, not to exceed eighteen months, to allow for such transfer of interest as is necessary in order to establish a Senior Resident in the unit. Furthermore, the continuing observance and enforcement of the age restriction described herein shall be a condition of compliance with this Zoning Bylaw. An exception to the requirement of a Senior Resident shall be allowed for purposes of the restriction and for purposes of compliance with the Zoning Bylaw, only in the case where a Senior Resident is deceased, and there is no surviving Senior Resident, and the unit is owned and occupied by the deceased Senior Resident's surviving spouse.

- (G) The Planning Board has reviewed and approved specimen bylaws and rules and regulations of the proposed SRMD which shall be submitted by the applicant and which shall provide means and mechanisms for the maintenance and enforcement of the restrictions required under this Section 6.7.

6.7.4. Design Process. Each SRMD shall follow the design process outlined below. When the development plan is submitted, applicants shall be prepared to demonstrate to the Planning Board with written and graphic exhibits that this design process was considered in determining the layout of proposed streets, dwelling locations, and contiguous Open Space. Applicants are encouraged to carry out the process in the order of steps hereinbelow listed, insofar as feasible.

- (A) Understanding the Site. The applicant shall inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other.
- (B) Evaluating Site Context. The applicant shall evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g. road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.
- (C) Designating the Open Space. The applicant shall identify the buffer areas and the contiguous Open Space to be preserved on the site. Such Open Space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend neighborhood Open Space networks.
- (D) Location of Development Areas. The applicant shall locate building sites, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect an integrated community.

6.7.5. Design Requirements. The following standards shall apply within the SRMD.

- (A) Water Supply. SRMDs shall be served by a public water system or private communal water systems which conform to all applicable regulations of the Commonwealth of Massachusetts and the Town of Dunstable. The water supply shall be sufficient at all times to meet public water supply and fire protection requirements and, in that regard, shall incorporate the reasonable recommendations of the Town Water and Fire Departments and, if provided, the Board of Health. All main service lines for water, sewer and utilities shall be underground or as otherwise approved by the Planning Board through the plan review process.
- (B) Drainage. Natural surface drainage channels shall be either incorporated into the overall design or preserved as part of the common land. The development area shall be served by storm sewers.
- (C) Building Separation. The distance between buildings shall be a minimum of forty (40) feet, except that any buildings containing more than two (2) stories may not be closer than fifty-five (55) feet from any building.

- (D) Parking. Onsite paved parking areas, including at least two (2) parking spaces for every Dwelling Unit with minimum dimensions of nine by eighteen (9 x 18) feet and adequate provisions for aisles, drives, visitor parking, and snow disposal, shall be provided. Separate buildings for parking may be permitted or located and designed so as to complement the building design and site layout as determined and approved by the Planning Board through the plan review process. Parking areas shall be designed so that parking for each Dwelling Unit will be located within one hundred (100) feet of the entrance to such dwelling unit.
- (E) Dwelling Units per Building. A SRMD may consist of any combination of single family, and multifamily residential structures meeting the requirements of subsection 6.7.3.(D)(ii), above.
- (F) Dwelling Unit Space. All dwelling units within multiple unit buildings shall have a minimum floor space are of seven hundred eighty (780) square feet.
- (G) Bedrooms. No dwelling unit may contain more than three (3) bedrooms. No SRMD shall have more than ten (10%) percent of the total number of dwelling units with three (3) bedrooms. A combined sleeping and living room in an efficiency or studio unit, so-called, shall be considered one (1) bedroom, and any other separate room in any unit which is not a single living room or equipped kitchen and is shown on a plan as being for other than bedroom use but which, because of location, size or arrangement could, in the opinion of the Board, be used or adapted for use as a bedroom shall be considered as a bedroom for density calculations. No attic, loft or other storage or similarly usable space shall be used as or altered to create bedroom space, nor shall the construction or other aspects facilitate such use or alteration.
- (H) Screening. All sewage facilities, service areas and equipment, trash conveniences, parking, and recreational areas shall have screening as required by the Board, and as otherwise required by the Planning Board through the plan review process..
- (I) Landscaping. The site shall be preserved and enhanced by retaining and protecting trees, shrubs, ground cover, stone walls, and other site features insofar as practicable. Additional new plant materials shall be added for privacy, shade, beauty of building and grounds, and to screen features which the Board deems detrimental to the aesthetics of the development, and as otherwise required by the Planning Board through the plan review process.
- (J) Open Space. All of the land within a SRMD which is not used to meet building separation requirements, and is not comprised of structures, roadways, driveways, necessary infrastructure or above ground utilities (including sewerage treatment or disposal and stormwater management) shall be considered as "Open Space". Open Space shall be laid out in such manner as to tend to assure compliance with the foregoing standards, to provide for pedestrian safety within the site and to provide an aesthetically pleasant setting for the SRMD within its neighborhood, and to be coordinated with other open or protected spaces in the vicinity. The Open Space shall be so designated, shall be at least two times the area of the land described in the first sentence of (J), above, and include no more than twenty (20%) percent of wetlands; provided that, a larger area of Open Space may be designated with a greater complement of wetlands, as long as the Applicant is able to show an area of Open Space at least twice as large as the developed area and including no more than twenty (20%) percent wetlands. Such Open Space shall be located and shall be laid out so as to provide for contiguous green areas uninterrupted to the degree practicable by roadways and structures. Such Open Space shall meet the ownership and maintenance and conservation restriction requirements as provided for under Sections 6.6.3.(H) and (I). Any restriction as described in Section 6.6.3.(I) shall meet all the requirements of G.L., c. 184, Sections 31 through 33.

- (K) Lighting. Exterior lighting shall be of a non-glaring type, and shall be planned, installed and operated so as to best serve each building or group of buildings, as required by the Planning Board through the plan review process. Parking areas, drives and other roadways shall be designed and landscaped so that all dwelling units are reasonably screened from motor vehicle headlights and so that parking area lighting will not directly unreasonably illuminate adjacent lots.
- (L) Rubbish Disposal. Rubbish and garbage disposal facilities with screening shall be provided in full conformity with all applicable health or other laws and regulations and shall be protected against scattering of contents, rodent or other unhealthy infestation or condition and odor transmission.
- (M) Environmental Protection. There shall be no filling, draining, altering or relocation of any stream, lake, pond, river, or wetland or work within applicable buffer zones except that performed in full compliance with applicable laws, the requirements of pertinent governmental agencies and the requirements of the Dunstable Conservation Commission. Provisions for wastewater treatment and/or disposal shall be completed in accordance with the provisions of applicable regulations of the Commonwealth of Massachusetts Department of Environmental Protection and applicable regulations of the Dunstable Board of Health.
- (N) Roads. The principal roadway(s) serving the SRMD may be designed to conform with the standards of the Planning Board under the Subdivision Rules and Regulations where the roadway is or may be ultimately intended for dedication and acceptance by the Town of Dunstable. Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the applicant.
- (O) Affordable Units. As part of the site plan approval, a minimum of five (5%) percent of the total number of dwelling units shall be restricted for a period not less than thirty (30) years in one or more of the following ways:
 - a. The units shall be affordable to persons or families qualifying as low income;
 - b. The units shall be affordable to persons or families qualifying as moderate income; and
 - c. The units shall be affordable to persons or families qualifying as median income.

The thirty-year restriction shall be approved as to form by legal counsel to the Planning Board. Such affordable units shall be integrated into the overall development of the SRMD so as to prevent the physical segregation of such units. The Applicant shall be encouraged to seek designation of the units referenced in paragraphs a and b, above, as affordable units which qualify as part of the subsidized housing inventory as approved and compiled by the Department of Housing and Community Development (DHCD), or its successor. The Planning Board may require that the Applicant affirmatively take steps to utilize a public agency, a nonprofit agency, limited dividend organization, or other appropriate entity, and through a Local Initiative Petition or other similar mechanism or program, cause application to be made to the DHCD, so as to timely furnish all forms and information necessary to promote the designation of those units referenced in paragraphs a and b, above, as affordable units qualifying as part of the Town's subsidized housing inventory. The Planning Board may require submission of application, forms and appropriate information to the DHCD as a condition of approval.
- 6.7.6 Density Bonus. The Planning Board may award a density bonus to increase the number of dwelling units beyond the maximum number provided for herein. The density bonus for the SRMD shall not, in the aggregate, exceed ten (10%) percent of the maximum density. All dwelling units awarded as a density bonus shall be limited to not more than two bedrooms. Computations shall be rounded to the next higher integer. A density bonus may be awarded in the following circumstances:

- (A) Open Space. For each additional ten (10%) percent of the site (over and above the required Open Space minimum set aside as contiguous Open Space), a bonus of five (5%) percent of the basic maximum number may be awarded;
 - (B) Affordable Units. For each additional one (1%) percent of the total number of dwelling units restricted to affordable units (over and above the required percentage) pursuant to subsection 6.7.5.(O) a. and b., above, a corresponding one (1%) percent of total units (relative to the maximum number) may be awarded.
- 6.7.7. Relation to Subdivision Control Law. Planning Board approval of a site plan or Special Permit hereunder shall not substitute for compliance with the Subdivision Control Law nor oblige the Planning Board to approve any related definitive plan for subdivision nor reduce any time periods for Board consideration under the law. For any project proposing a subdivision pursuant to the Subdivision Control Law, application for approval of a definitive plan in accordance with the Subdivision Control Law and the applicable Rules and Regulations of the Dunstable Planning Board may be submitted in satisfaction of the site plan review requirements of this Section 6.7., provided that all information required in connection with site plan review is included thereon.
- 6.7.8. Bed and Breakfast Establishment: In order to help to preserve the special character of the Town as a rural village by encouraging the utilization of existing homes which, because of their size, are costly and/or difficult to maintain as private residences, and by providing an economic incentive to maintain and/or rehabilitate older, larger residences, and by regulating Bed and Breakfast establishments to insure sensitivity and compatibility with the surrounding neighborhoods in the Town through minimizing adverse impacts on neighboring residential use, an owner or tenant of an existing single family dwelling house in any district may make application to the Planning Board for a Special Permit for a Bed and Breakfast Establishment.
- 6.7.9. Description: A Bed and Breakfast Establishment is a single-family dwelling having a mixed use as a home for the residential owner or tenant and as an accessory use for guest lodging. The home is to be the primary and legal residence of the owner or tenant.
- 6.7.10. Submittal and Review Requirements. Application under this section shall be submitted in accordance with the requirements of the Massachusetts General Laws and any rules and regulations of the Planning Board in connection with Special Permits. The Planning Board may, in its discretion, refer the application to any other board or agency of the Town, for review. In addition, applicants shall comply with the requirements of Site Plans as set forth in Section 14 of this Bylaw, provided that specific requirements of such section may be waived by the Planning Board at the request of the applicant as long as the Board deems that such waiver will not impair the due and proper interests of the Town or otherwise adversely affect the review process. In general, applicants for Special Permits under the provisions of this section shall provide sketches, drawings, or plans necessary to illustrate compliance with the requirements of the section and this Bylaw. Illustrations required may include, but not be limited to, parking and driveway plan, room layout, sanitary facilities, and kitchen facilities.
- 6.7.11. Minimum Special Requirements:
- (a) The Bed and Breakfast establishment and operation shall be located within an existing owner (or tenant) occupied single family dwelling as of existing the adoption of this section

and containing a minimum of four (4) bedrooms.

- (b) Rooms dedicated to the Bed and Breakfast establishment shall be separate from those rooms ordinarily used by the resident family.
- (c) Up to three (3) bedrooms may be dedicated to the Bed and Breakfast establishment, and additional rooms may be authorized by the Planning Board provided that it finds that such additional rooms do not adversely impact the operation and the neighborhood in terms of density, the ability of the location to handle the higher level of parking and traffic, and other such considerations.
- (d) The Special Permit authorizing the operation of a Bed and Breakfast establishment shall be issued by the Planning Board to the owner of the property (or tenant applicant) only and shall not be transferable to a subsequent property owner or tenant unless application is made to the Planning Board for such transfer following the requirements and procedures of this section.
- (e) The owner of the property (or tenant as the case may be) and the recipient of the Special Permit shall have responsibility for operation of the Bed and Breakfast establishment as long as the Bed and Breakfast establishment is in operation. The owner shall file an affidavit with the Dunstable Building Inspector and Town Clerk on an annual basis between December 1 in the year and January 15 in the following year, stating that the property is the principal residence of the owner (or tenant) and that the owner (or tenant) is in residence at all times that the Bed and Breakfast is being operated. Such affidavit shall be a condition of the issuance of the annual Certificate of Occupancy referred to hereinbelow.
- (f) The single-family residence in which the Bed and Breakfast operation is located shall be maintained so that the appearance of the building and grounds remain that of a single-family residence.
- (g) No cooking facilities, including, but not limited to, stoves, microwave ovens, toaster ovens, and hot plates, shall be available to guests; and no meals, except a continental style breakfast, shall be served to guests. Alcohol shall also be prohibited from being served on the premises to any Bed and Breakfast guest. Additionally, there shall be at least one (1) bathroom exclusively dedicated to the guests of the Bed and Breakfast establishment.
- (h) The applicant shall provide evidence to the Planning Board of a satisfactory and sufficient water supply. If the Planning Board finds that the proposed use will have a detrimental effect on any water supply, on or off site, such finding shall be grounds for denial of the Special Permit.
- (i) Any septic system serving the premises shall have the design capacity to support the proposed number of rooms available for rent, as said design capacity is defined by the Dunstable Board of Health or its Agent. Before any Certificate of Occupancy can be issued by the Dunstable Building Inspector for operation as a Bed and Breakfast establishment, the application shall be approved by the Dunstable Board of Health. New Bed and Breakfast establishments served by an existing septic system shall not be granted approval for operation until the Dunstable Board of Health confirms compliance with inspection and/or design requirements as set forth in 310 CMR 15.301; 302; 303; 352; 414 State Environmental Code Title V Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, as the same may from time to time be amended, and the Town of Dunstable Board of Health Rules for On-Site Disposal Supplemental to the State Environmental Code,

'Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, "Title 5"', and all other applicable local Board of Health rules and regulations.

- (j) Exterior lighting shall be so shaded or directed as to prevent illumination off-site. All external lighting, except for demonstrable safety and security needs, shall be extinguished by 10:00 P.M.
- (k) No additional parking required for operation of the Bed and Breakfast establishment shall be located in any required building yard set back. All required additional parking areas shall be screened from adjoining residential properties by a fence or dense evergreen plantings, not less than five (5) feet in height, as specified by the Planning Board. Furthermore, such additional parking shall be prohibited in the front yard(s). All parking for a Bed and Breakfast establishment shall be located on the premises unless otherwise approved by Planning Board waiver. There shall be provided two (2) parking spaces for the home owner and one (1) parking space for each bedroom which the Bed and Breakfast establishment has available for rent to guests. Provisions in this Bylaw relative to parking inconsistent with this section shall be resolved in accordance with the provisions of this section.
- (l) Any sign relating to a Bed and Breakfast establishment shall maintain full compliance with Section 13 of this Bylaw – but under no circumstance may any sign for Bed and Breakfast operation exceed 2' X 3' or equivalent surface area.
- (m) The burden shall be upon any applicant to demonstrate that the building which is the subject of the Special Permit application for Bed and Breakfast establishment was in existence at the time of adoption of this section.
- (n) Prior to the renting of any rooms to guests the applicant shall obtain a Certificate of Occupancy signed by the Dunstable Building Inspector. The Certificate of Occupancy shall be renewed every year in January. Such renewal shall be in accordance with any applicable fee schedule established by the Board of Selectmen or such Board or officer as may be duly empowered to establish such fee schedule.

6.7.13. Mixed uses, as set forth in Section 23 of this Bylaw [subject to enactment].

SECTION 6a. R-1a COMMERCIAL RECREATIONAL. Uses permitted in this district shall include any use permitted in an R-I District, subject to the same conditions and restrictions as are prescribed therefor. Additional uses shall be by special permit of the Board of Selectmen and shall be limited to facilities designed for group or individual participation in recreational pursuits which are carried on primarily out of doors and which do not generate offensive noise, odor, pollution, traffic congestion on public ways, lighting beyond the property or other noxious effects.

- 6.a.1. Also permitted as an ancillary enterprise shall be the rental of recreational equipment only for same day use on site, and the sale of such items as might ordinarily and reasonably be used or consumed by persons observing or participating in the recreational activities.
- 6.a.2. All such ancillary enterprises shall function only during such times as the primary recreational facility is actually operating.
- 6.a.3. Without necessarily implying approval of activities not listed hereinbelow, there are specifically excluded from uses permitted in this section, tracks or courses to be used for motor driven vehicles of any kind; the offering, taking or otherwise being involved with gaming, betting, wagering, or any other activity involving games of chance; drive-in or outdoor theaters, or similar amusements providing for passive participation by attendees, except when the same involve entertainments by live performers.
- 6.a.4. No enterprise allowed by this section shall be permitted without having first received all authorizations, licenses and permits as may be required from time to time by any local, county, state or federal agency.
- 6.a.5. Permits granted under this section may be conditioned upon reasonable regulations in regard to parking, maintenance of facilities, intensity of use, hours of operation, and other such considerations as shall in the discretion of the board conduce to the protection of surrounding properties, the preservation of the health and welfare of persons or animals, and the best interests of the town.
- 6.a.6. Applications for uses under the special permit provisions of this section shall be accompanied by a site plan submitted and approved in accordance with the provisions of Section 14 of this bylaw. Development regulations as to area, frontage, setbacks, parking (see Section 12), etc. shall be as prescribed by the Board in consideration of the uses and facilities proposed and incorporated on the site plan.

SECTION 7. R-2 GENERAL RESIDENCE DISTRICT. The R-2 General Residence District is intended as a district of single and two-family dwellings, and limited types of multi-family development.

7.1. Uses Permitted:

- (a) Any use permitted in an R-I Single Residence District, subject to the same conditions and restrictions as are prescribed therefor.
- (b) Two-family dwelling, provided that there shall be only one (1) residential structure per lot.
- (c) Nursing or convalescent home.
- (d) Multi-family housing for the elderly or old-age housing, under state or federal law or program, or any other multi-family use mandated by applicable law, provided that no building permit for any such use or development shall be issued unless a site plan has been submitted to and approved by the Planning Board in accordance with the provisions of Section 14 of this bylaw.

7.2. R2. Development Regulations.

Refer to Section 11.

SECTION 8. B-1 Retail Business District. The B-1 Retail Business District is intended primarily to provide for retail shopping and other consumer needs and services of like character.

8.1. Uses Permitted

- (a) Any use permitted and as regulated elsewhere in this bylaw in an R-1 or R-2 District.
- (b) Store for retail sale of merchandise where all display and sales are conducted within a building and where no significant manufacturing, assembly or packaging occur on the premises, except as permitted under (f), hereinbelow.
- (c) Barber shop, beauty shop, laundry and dry cleaning service, shoe repair, or other similar retail service establishment; but excluding establishments involving bodily massage or other physical therapy or manipulation, except as practiced by licensed professional practitioners.
- (d) Business office, professional office or bank.
- (e) Post Office.
- (f) Craft workshops, including retail sales of products produced on the premises, provided that no objectionable noise, dust, glare or other noxious emanations result from the activity, and provided further that the products are marketed primarily at retail sale on the premises.
- (g) Restaurant or other place for serving food, on the condition that the parking spaces serving the premises are provided immediately adjacent to the restaurant on the same lot as the building in which the restaurant is located, and are reserved exclusively for the use of patrons and employees of the restaurant. Drive-up or drive-through restaurant service is specifically prohibited under this bylaw, whether as the sole method of operation of the establishment, or a component operation thereof.
- (h) Uses accessory to the foregoing, provided in all cases that such accessory uses are entirely incidental and secondary to the primary permitted uses on said premises, and do not result in noise, dust, glare, or other emanations greater than would be produced by the primary permitted activity.

8.2. Development Regulations for the B-1 District.

8.2.1. Refer to Section 11.

8.2.2. Uses permitted under Section 8.1.(b) - (h) shall require a site plan under Section 14 to be submitted to the Planning Board.

SECTION 9. B-2 SERVICE BUSINESS DISTRICT. The B-2 Service District is intended for buildings and selected commercial uses providing goods and services for inhabitants of the Town.

9.1. Uses Permitted:

Any use permitted and as regulated elsewhere in this bylaw in an R-1 District, an R-2 District or a B-1 District.

9.2. Uses Permitted by Special Permit of the Planning Board:

(In cases of applications under this subsection, the Planning Board may refer any such application to any other board or agency of the town for review, in which event such board or agency shall make such recommendations as it deems appropriate, and shall deliver copies thereof to the Planning Board and to the applicant.)

- (a) Service station or repair shop for motor vehicles, appliances and other light equipment, or auto body repair shop; provided that, except for the storage of school buses, there shall be no storage of such motor vehicles, appliances or other light equipment on the premises, other than those in process of or awaiting repair, or awaiting delivery or pickup after repair.
- (b) Sale and rental of light equipment.
- (c) Offices for general building contractors, building maintenance contractors, landscaping contractors, electrical contractors and similar building trades contractors, including outdoor storage of supplies, tools, equipment and vehicles incidental to and in regular use in the actual conduct of the activity, provided that any such storage may be the subject of limitation or regulation by the Planning Board as to quantity, intensity, duration, screening, etc., in order to prevent harm or inconvenience to nearby owners and properties or to the general public.

9.3. Development Regulations for the B-2 District.

9.3.1. Refer to Section 11.

9.3.2. Uses by special permit under Section 9.2. and uses in this district provided under Section 8.I.(b) - (h) shall be subject to the site plan requirements of Section 14. Development regulations as to area, frontage, setbacks, parking (see Section 12), etc., shall be as prescribed by the board in consideration of the uses, operations and facilities proposed and incorporated on the site plan.

9.4. Permits for Uses in the B-2 District.

9.4.1. The Planning Board may permit more than one use on a lot or in a building, provided it determines that such uses are compatible with each other and that the existence of such uses on the same lot or in the same building is consistent with the purposes of this bylaw; and provided further that with regard to uses permitted in the R-1 and R-2 Districts and carried on in the B-2 District, the limitations and exclusions as to use in those districts shall apply to such lot or building in the B-2 District.

- 9.4.2. Any use which existed in the B-2 District as of the effective date hereof, or any amendment hereto, whether by right or by special permit, shall be entitled to continue in existence, insofar as permitted by applicable law; but all renewals of any such special permit shall conform to the provisions of Section 4 and this section of the bylaw. Furthermore, no such use shall be modified, extended or enlarged in any fashion without first complying with the special permit provisions of this section.

SECTION 10. B-3 EXPANDED COMMERCIAL DISTRICT. The B-3 Expanded Commercial District is intended for use and development of limited types of research laboratories, office building and selected entrepreneurial uses and business uses permitted in the B-1 and B-2 Districts, but not including any residential use and not including dumps, refuse disposal facilities, transfer stations, offal or rendering plants, junk yards, or other uses incidental to any of the foregoing.

10.1. Uses Permitted Subject to Special Permit of the Planning Board. In each case, the Planning Board shall consider, in addition to the requirements of Section 15.2., screening and setbacks from adjacent lots, proximity to park lands, conservation lands, public lands, or sites of historical interest or importance, location of exits and entrances from adjoining streets and highways, location and arrangement of parking areas, control of signs and architectural appearance, and shall impose such conditions and safeguards as are required to protect the public interest in regard to same.

- (a) research laboratories with incidental processing or pilot manufacturing, but excluding any such use that in the opinion of the Planning Board presents any actual or potential hazard or detriment to surrounding properties or the town at large. Any such uses shall require as a condition of the permit the right of free and full inspection and inquiry by the town or its appointed agents;
- (b) office buildings;
- (c) light manufacturing enterprises, provided that any applicant demonstrates clearly and convincingly that such activities do not appear likely to be offensive, injurious or noxious because of gas, glare, noise (steady or intermittent), dirt, sewage and refuse, vibration, smoke, fumes, dust, odors, other emanations, danger of fire or explosion or other characteristics, detrimental or offensive, that tend to diminish property values in the same or adjoining districts, or otherwise be detrimental to surrounding properties or the town at large;
- (d) uses accessory to or which serve the reasonable needs of the entrepreneurial uses permitted hereunder, provided that they are subject to all of the requirements and limitations of this section, and provided that they are not offensive by reason of the criteria set forth in subsection (c) above; provided, however, that in submitting any application under this section for any of the foregoing entrepreneurial uses permitted in the B-3 Expanded Commercial District, an applicant shall submit a copy thereof to the Board of Health, together with a complete statement of all applicable state and federal health, safety and environmental standards, including a description of the manner in which compliance with same shall be effected. The Board of Health shall thereafter submit a report in connection therewith to the Planning Board, which report the Planning Board shall consider in deciding upon the issuance of any permit.

10.2. Requirements Applicable to all Entrepreneurial Uses.

- (a) Before any building permit may be granted by the Building Inspector for any buildings, structures or uses in a B-3 Expanded Commercial District for which a permit has been issued by the Planning Board as hereinabove provided, there shall first be submitted to the Building Inspector such detailed plans as shall evidence that such buildings,

structures and uses conform to the standards for design, construction, use, operation, and other requirements set forth in the permit, and such plans shall be certified as to compliance by the architects or engineers responsible for such plans. In the event of any reasonable doubt by the Building Inspector as to compliance with said requirements, he may consult with the Planning Board.

- (b) No dangerous or hazardous radiation shall be detectable outside any structure, or within any structure in areas ordinarily used by or accessible to employees or members of the public.
- (c) Site plan authority shall specifically include the authority to regulate water service and waste disposal installations in any particular development in order to minimize adverse impact on the lands affected.
- (d) Fuel, raw or partially processed, finished or other material, machinery, supplies and equipment, including company owned or operated vehicles, shall not be stored between the street line and the front line of structures on the subject lot or, if there be no structure, within forty (40') feet (12.19 m) of the street line, and in no case shall any of these be visible from the street.

- 10.3. Development Regulations. All development in a B-3 District shall be in accordance with an approved site plan submitted in accordance with Section 14 of this bylaw. Regulations as to area, frontage, setbacks, etc., shall be as prescribed by the Planning Board in consideration of the uses, operations and facilities proposed and shall be incorporated in the site plan. In any case, the height of any building shall not exceed thirty-six (36') feet (10.97 m), and the minimum area of any tract to be developed shall be 100,000 square feet (9290 sq. m). No building shall serve to occupy an area larger than twenty-five (25%) percent of the lot size, nor shall any parking area, adequate for the use of the building (see Section 12), cover an area greater than twenty-five (25%) percent of the lot size.

SECTION 11. DEVELOPMENT RULES AND REGULATIONS FOR ALL DISTRICTS. All development in the Town of Dunstable shall comply in respect to dimensional characteristics with the maximum or minimum requirements provided herein.

11.1. See chart.

| 11.1. DIMENSIONAL REQUIREMENTS | | | | MINIMUM SETBACKS | | |
|--------------------------------|-----------------------------|--|--|------------------------|--------------------------|--------------------------|
| DISTRICT | MAXIMUM HEIGHT OF BUILDINGS | MINIMUM LOT AREA | MINIMUM FRONTAGE | FRONT YARD | SIDE YARD | BACK YARD |
| R-1 | 36 ft. (9.84 m) | 87,120 sq. ft.* - (8093.7 sq. m) | 200 ft. (60.96 m) | 30 ft. (9.14 m) | 30 ft.** (9.14 m) | 30 ft.** (9.14 m) |
| R-1a | 36 ft. | see § 6a.6. | ----- | ----- | ----- | ----- |
| R-2 | 36 ft. | 87,120 sq. ft.* plus: 20,000 sq. ft. for 2nd & 3rd unit plus: 15,000 sq. ft. for each additional unit | 200 ft. | 30 ft. | 30 ft.** | 30 ft.** |
| B-1 | 30 ft. | Residential uses: as provided in R-1 and R-2 Districts B-1 uses: 43,560 sq. ft. (4046.85 sq. m) | Residential: 200 ft. B-1 uses: 150 ft. (45.72 m) | Residential: 30 ft. | Residential: 30 ft.** | Residential: 30 ft.** |
| B-2 | 30 ft. | Residential uses: as provided in R-1 and R-2 Districts B-1 uses: 43,560 sq. ft. B-2 uses: see § 9.3.2. | Residential: 200 ft. B-1 uses: 150 ft. B-2 uses: see § 9.3.2. | Residential: 30 ft. | Residential: 30 ft.** | Residential: 30 ft.** |
| B-3 | 30 ft. | B-1: 43,560 sq. ft. B-2: see § 9.3.2. B-3: see § 10.3. | B-1: 150 ft. B-1: § 9.3.2. B-3: Per site plan | Per site plan | Per site plan | Per site plan |

* See in addition, § 6.3. (a)

** Accessory buildings: 20 ft.

11.2. Height.

11.2.1. Height shall be measured as the vertical distance from the average ground elevation around the exterior walls of the structure to the highest point of the top story in the case of flat roof, and to the mean height between the plate and the ridge in the case of a pitched roof, provided that the ridge of a pitched roof shall not be higher than one hundred thirty (130%) percent of the stipulated height for the district.

11.2.2. In determining the height of a building, any floor level shall be counted as a story if it is to be used in part for sleeping rooms, or if it is higher than three (3') feet below the average ground level around the exterior walls of the structure. Limitations of height relative to buildings shall not apply to radio and television towers, nor to chimneys, ventilators, skylights, spires, tanks, antennas, solar panels, or other features of such building usually carried above roofs; provided that in a residential district such features are in no way used for living purposes; and provided further that in no case shall the height of any such feature be greater than the distance between its base and any lot boundary.

11.3. Area. Frontage - Yard Requirements.

11.3.1. In computing the area of any lot, no part of a public road or way, or other way used in the manner thereof, provided that this exclusion shall not include driveways, and no part of a pond or stream shall be included. In addition, at least forty thousand (40,000) contiguous square feet of every lot laid out for residential use shall be land exclusive of wetland area subject to the protection under either the Dunstable General Wetlands By-Law or Massachusetts General Laws, Chapter 131, Section 40, (the "Wetlands Protection Act") . In addition, each lot shall be capable of containing a 150 foot diameter circle within which there is not wetland subject to protection under the Dunstable General Wetlands By—Law or Massachusetts General Law, Chapter 131, Section 40, (the "Wetlands Protection Act"), and within which any principal building shall be located.

11.3.2. It is the intent of this bylaw to prohibit the use of long, narrow strands of land not part of the substantial body of a lot as a means for satisfying minimum area requirements. Therefore, when any portion of a lot is defined by parallel lines, or irregular lines that generally oppose one another, such that the mean distance between points on the lines is less than fifty (50') feet, the land lying within such lines shall be excluded in the computation of minimum lot area; furthermore, in the event that such sections of lot lines connect separate portions of a lot in a dumbbell configuration, the smaller of the connected sections shall also be excluded; provided that these exclusions shall not be applicable to lots on which the aggregate linear distance along such sections of width less than fifty (50') is less than one hundred fifty (150') feet. This subsection is subject to the additional provisions of subsection 6.3.(a).

11.3.3. Frontage shall be measured along the street line, connecting points of intersection of the side lot lines with the street line, and the distance between said lot lines shall not be less than the minimum frontage requirement, as defined elsewhere in this section, between the street line and the principle building on the lot.

11.3.4. A lot having frontage on two streets which do not intersect shall have two (2) front yards, each of which shall comply with the requirements of this bylaw, but need meet the minimum frontage requirement only with respect to one of the streets. A corner lot having frontage at the junction or intersection of two streets must have the minimum

frontage on at least one of the streets, and arcs constituting flared turnouts at said junctions or intersections shall not be counted in computing such frontage; such lots shall be deemed to have two (2) front yards, each of which shall comply with the requirement of this bylaw.

- 11.3.5. In the event of an irregularly shaped lot and a question as to the identification of the appropriate side lot lines for the foregoing measurements, the matter shall be decided by the Building Inspector, in the first instance, who may consult the advice of the Planning Board in any instance at his discretion.
- 11.3.6. Front yards shall be measured from the street side line to the nearest point of the front wall of any dwelling or any structure, provided that nothing shall prevent the projection of uncovered steps, cornices, window sills and other such incidental ornamental features, nor the construction of walls or fences which do not interfere with vision at the intersection of two or more streets.
- 11.3.7. Side and rear yards shall be measured, in cases of residential premises, from the nearest part of any dwelling, and in other cases from the nearest part of the main non-residential structure, to each side lot line and to the rear lot line. Where yard requirements apply to accessory buildings, measurement shall be from the nearest part of any such building.
- 11.4. Lot Coverage. The total area of the enclosed space in all buildings on any lot shall not exceed twenty-five (25%) percent of the area of the lot.
- 11.5. Accessory Buildings. Accessory buildings shall not be located closer to the street line than principal buildings.
- 11.6. Subdivision Phasing. In order to encourage a steady pace of residential development, provide long-term support to the local building industry, stabilize property values and facilitate adequate provision of public services to individual developments and the Town in general, the following regulations shall apply to development upon lots created in accordance with the Massachusetts Subdivision Control Law, as amended.
- 11.6.1. Applicability. The following regulations shall apply to all subdivisions of land into more than ten (10) lots in any twelve (12) month period. They shall not apply to divisions of land pursuant to Section 81P of the Act, pertaining to so-called "Approval-Not-Required" plans.
- 11.6.2. Building Limitations. Within any approved subdivision, no more than ten (10) lots or twenty (20%) percent of the total number of lots within the approved subdivision, whichever is greater, may be built upon for residential purposes in any twelve (12) month period commencing on the date of final approval of such subdivision. Any lot existing at the time of adoption of this Section 11.6. shall be considered as a single unit for the purpose of this Section 11.6. and the subdivision of such a lot by two or more definitive subdivision plans shall be considered as a single subdivision plan for the purposes of this Section 11.6.
- 11.6.3. Exemptions. The provisions of this Section 11.6. shall not apply to, nor limit in any way, the granting of building or occupancy permits required for enlargement, restoration or reconstruction of dwellings existing on lots as of the effective date of this Section 11.6.

11.7. BACKLAND LOT REQUIREMENT Notwithstanding anything to the contrary in the preceding subsections 11.1. DIMENSIONAL REQUIREMENTS and 11.3., AREA, FRONTAGE AND YARD REQUIREMENTS, land in any district may be developed and used for residential purposes as one or more Backland Lots by special permit of the Planning Board authorizing same and by the recording of a plan defining such lot or lots endorsed by the Planning Board in accordance with the Subdivision Control Law, including a so-called Approval Not Required plan pursuant to Chapter 41 of the Massachusetts General Laws, Section 81P, as amended. Such plan shall include the statement, "Lot _____ is a Backland Lot; building is permitted only in accordance with a Special Permit issued by the Planning Board pursuant to Section 11.7. of the Zoning Bylaw of the Town of Dunstable."

Issuance of any such Special Permit shall be subject to the following provisions:

1. Each such lot must meet the following criteria:
 - (a) A minimum of street frontage on a public way of forty (40) feet
 - (b) A minimum lot width of forty (40) feet between the public way and the principal building on the lot
 - (c) A radius of at least eighty (80) feet on the centerline of that portion of the lot having reduced width or frontage under this section, from the point of contact with the road and the location of the principal building on the lot
 - (d) The minimum lot size shall be five (5) acres, of which at least three contiguous acres shall be free of land unsuitable for development as defined in Section 20.
 - (e) Setback minimum of two hundred (200) feet from the public way sideline and fifty (50) feet from any lot line.
 - (f) No more than two (2) backland lots with contiguous frontage will be allowed.
 - (g) No such reduced frontage lot shall be allowed on a cul-de-sac roadway.
 - (h) In the calculation of minimum lot size, with the exception of the proposed driveway, there shall not be included any land which would be excludable as provided in section 11.3.2.
2. In addition to the foregoing requirements, the Planning Board may impose as a condition of any such Special Permit further requirements to facilitate safe and convenient access to the backland lot and lots in the vicinity thereof, including the following:
 - (a) Shared or common driveways in order to limit the frequency or density of driveway openings in any given stretch of roadway. Any such driveway shall be contained entirely within the boundaries of the lots served by it, and no more than three lots may be served by one driveway unless the applicant can demonstrate to the Planning Board that additional connection can be made to such driveway without detriment to the needs of safe, suitable and convenient access. The Board may require a shared driveway maintenance agreement.

- (b) Provisions relative to driveways serving backland lots for maximum gradient of ten (10%) percent; turnaround/pulloff area within the driveway length to serve emergency and other vehicles; manner of surfacing where the driveway connects to road or public way. These provisions may apply to shared or single driveways.

No building permit shall be issued unless the lot complies with all provisions of this section and any Special Permit issued thereunder. Subject to the foregoing provisions Backland lots shall comply with other provisions of the Dunstable Zoning Bylaw.

11.8. Growth Rate Limitation. The rate of development in Dunstable should not exceed the ability of the Town to provide necessary schools, roads, police, fire protection, water and other municipal services. The purpose of controlling the rate of residential development is to ensure that Dunstable is able to provide the necessary municipal infrastructure and services needed to protect and promote public health, safety and welfare while maintaining a steady growth and avoiding wide variations in the rate of development.

11.8.1. Applicability. The rate of development established hereunder shall apply to the issuance of all building permits for construction of new dwelling units on lots created after the effective date of this section. This bylaw shall lapse five (5) years from its effective date provided that it may be extended without lapse of its provisions pursuant to a vote of the Town Meeting following hearing and notice duly carried out according to the requirements of Chapter 40A of the General Laws. Prior to, or at that time the Planning Board shall report to Town Meeting the effectiveness of the rate of development Limitations and the need~, if any, to continue and/or amend said limitation.

Nothing in this Bylaw shall be deemed to alter any requirement that building permit applications be referred to the necessary Boards and/or Departments for review or approval.

11.8.2. General

- a) Unless exempted by Section 11.8.3. (below), building permits shall not be issued authorizing construction of more than forty-eight (48) dwelling units in any twenty-four (24) month period, with the first such period beginning with the effective date of this bylaw.
- b) No more than twenty-four (24) permits in any twenty-four (24) month period may be issued for Approval Not Required (ANR) lots, and no more than twenty-four (24) permits in any twentyfour (24) month period may be issued for dwelling units in a subdivision, subject to the exemption provisions of Section 11.8.3.
- c) 'Applicant' within the meaning of this section shall mean the owner, beneficial owner, or person/entity in lawful control of ownership of the premises which are the subject of an application~ without regard to 'straws' or other forms of nominal ownership.
- d) No applicant shall be issued more than seven (7) building permits for new dwelling units on lots within the scope of this Section in any twelve (12) month period, regardless whether the permits pertain to subdivision lots, ANR lots, or

any other lots.

- e) Further in limitation, no more than five (5) building permits shall be issued in any one subdivision for new dwelling units per year regardless of the identity of the applicant. The limitation imposed under this § shall be in addition to and independent of any limitation arising out of Section 11.6.2.
- f) In the case of any lot created after the effective date of this Section by a process involving neither an ANR plan nor a subdivision plan, such lot shall be treated under the provisions hereof as though it were an ANR lot and shall be counted towards the maximum complement of ANR lots.

11.8.3. Exemptions.. Building Permits for the following types of dwelling units are exempt from the Growth Rate Limitation provisions of this Bylaw:

- a) Dwelling units created under any statute or statutory program, the provisions of which, including any regulations duly adopted thereunder, specify a purpose of assisting or fostering the construction of low or moderate income housing.
- b) Any lot created prior to the effective date of this Section by Special Permit, subdivision plan, ANR plan, or other lawful process.
- c) Any lot created in any lawful manner which has an area of one hundred percent (100%) over the required minimum excluding Land Unsuitable for Development as defined in Section 20.
- d) Any lot created in an Open Space Development, Section 6.6. of this Bylaw and pertinent subsections, where the open space is at least one hundred percent (100%) over the required minimum excluding Land Unsuitable for Development as defined in Section 20.

11.8.4 Procedures. The procedure for establishing priority in the issuance of building permits shall be as follows:

- a) Initial priority will be established on a 'first come, first served' basis by the submittal of a complete application for a building permit to the Building Inspector in the manner authorized by law.
- b) The Building Inspector will assign consecutive numbers (RD Numbers) to each application for building permits as each is received and time stamped at the office of the Building Inspector.
- c) Building permit application packages that are incomplete or rejected for any valid reason will be returned to the applicant, and that application will be deemed to have lost its priority position. Such applicant may re-submit a corrected or amended application and receive the next available RD Number in the manner provided herein.
- d) For purposes of calculating numbers of building permits issued within applicable time frames under Section 11.8.2., the date of issuance of any permit shall be

deemed to be the date of receipt of the properly completed application by the Building Inspector.

- e) Building permits issued, but subsequently abandoned under applicable laws, rules or regulations shall be deemed lapsed and shall not be counted towards the forty-eight (48) new dwelling units allotted under Section 11.8.2.; and the lot for which the permit was issued shall lose its priority position. Building permits for which an extension has been duly granted pursuant to the State Building Code, or other applicable law, rule or regulation, shall retain their priority position. Lots subject to the Growth Rate Limitation section of this bylaw, for which a building permit formerly issued has lapsed, may be the subject of the reapplication provided all of the requirements and provisions of the bylaw are met.

SECTION 12. PARKING AND LOADING AREAS.

12.1. Purpose. It is the purpose of this section to provide that land use for arrival, departure, parking or storage of motor vehicles shall be designed in such a way that all users shall have sufficient parking and maneuvering spaces and storage spaces to meet their needs.

12.2. Regulations and Restrictions.

12.2.1. General Provisions. No permit or special permit shall be issued, including a permit issued under a variance, for any use or construction, authorized under this bylaw, for which a site plan is required to be filed, unless sufficient provision is made for off-street parking, loading, or storage of vehicles, the same to be incorporated in the site plan and in accordance with this section and with rules and regulations of the site plan authority relative to parking. Information on the site plan in this connection shall include but not be limited to the following:

- (a) the quantity, location and dimensions of all driveways, maneuvering spaces and aisles, parking spaces, storage areas, drainage facilities and landscaping;
- (b) the location, size and type of materials for surface paving, curbing or wheel stops, trees, screening and lighting; -
- (c) the location of all buildings and lot lines from which the parking lot must be set back.

12.2.2. Required Parking. In all districts, all uses, structures and facilities shall provide for parking, loading or the storage of vehicles according to the following ratios, unless any applicant can demonstrate in clear and convincing manner to the site plan authority that owing to circumstances particularly affecting the subject property or project, the reasonable purposes to be served under this section can be satisfied alternatively:

- (a) Dwellings: One (1) parking space for each dwelling unit therein, plus sufficient parking space provided to permit off-street parking either by employees or visitors.
- (b) Places of public assembly: One (1) parking space for each three (3) seats therein.
- (c) Schools: One (1) parking space for each classroom therein, plus one (1) space for each two (2) employees or staff members other than teachers; and, in addition to the above, where an auditorium is provided, one (1) space for each three (3) seats therein.
- (d) Hotels, motels and lodging houses: One (1) parking space for each room accommodation therein, and loading spaces for all delivery trucks or sanitary collection vehicles.
- (e) Other service establishments and retail businesses: The minimum required parking and loading spaces, excluding driveways, for these establishments shall be in proportion to at least one (1) parking space for each one hundred forty (140) square feet or fraction thereof of gross floor area, excluding basement storage area.
- (f) Establishments permitted only in the B-3 District: One (1) parking space for each

person employed on the largest shift, plus one (1) space for each company-owned or operated vehicle, plus spaces for customers' vehicles as appropriate, and loading space for all delivery or shipping trucks.

- (g) Other uses requiring off-street parking and loading space: Spaces in accordance with anticipated needs as determined by the site plan authority.

SECTION 13. SIGNS.

- 13.1. In Residence Districts, the following exterior signs, and no others excepting temporary signs as provided in Subsection 13.6., are permitted:
- (a) In the case of a permitted or authorized use other than a dwelling or private use accessory thereto; or in the case of the sale or lease of a dwelling or any premises; or in the case of a home occupation permitted under subsection 6.1.(g) of this bylaw: two (2) signs, each not over twenty-four (24") inches by thirty-six (36") inches (60.96 cm X 91.44 cm) pertaining to such use, sale or lease.
 - (b) Historic signs and others pertaining to the identity of the occupants, the name of the premises, or other information pertinent to the residential character of the premises.
 - (c) A sign indicating the street number of the premises, in compliance with the Dunstable Building Numbers Bylaw.
- 13.2. In any Business District, the following exterior signs, and no others, excepting temporary signs as provided in Subsection 13.6., are permitted, provided they pertain to the business conducted on the premises:
- (a) A sign displayed on the wall of a building, provided that no such sign shall exceed twenty (20) square feet in area or extend beyond the building lines.
 - (b) One sign shall be permitted for each separate and distinct establishment on any premises, or for each two hundred (200') linear feet (60.96 m) of lot frontage •on the principal street, whichever allows the greater number of signs, provided that no such sign exceeds twenty (20) square feet in area.
- 13.3. Moving signs are prohibited in all districts, whether moved by mechanical means or natural forces such as wind or sun. This section shall not be construed to prohibit hanging signs, provided that they can remain stationary under ordinary weather conditions.
- 13.4. In all districts, no exterior signs shall be illuminated except by reflected white light emanating from a source external to the sign proper (but which may be attached thereto) • The source of light shall be steady, and shall be shielded from direct view at normal eye level from streets and from adjacent premises.
- 13.5. Nothing in this section shall be construed to prohibit, nor shall the foregoing regulations pertain to, legal notices, signs placed or required by governmental bodies or applicable law, or signs directing pedestrian or vehicular traffic on private property, provided that the same do not bear advertising or promotional matter.
- 13.6. In all districts, notwithstanding the foregoing provisions, temporary signs may be erected and displayed provided they meet the following requirements:

- (a) They may only be employed for temporary purposes in order to give notice of special or community events, local occasional sales of goods of a non-recurring nature such as yard sales, or occasional events of a similar nature.
- (b) Temporary signs on private property shall require the permission of the owner.
- (c) Temporary signs within public ways shall not be attached to trees, utility poles or fences, nor shall they obstruct necessary sight lines .
- (d) Signs noticing specific events may be displayed no earlier than twenty-one days prior to the commencement of the event and shall be removed forthwith following the event, not to exceed five calendar days.
- (e) Signs such as banner signs erected over public ways in the town shall first be approved as to content upon application to the Board of Selectmen (which approval shall not be unreasonably refused), and shall be subject to further procedures through the Board of Road Commissioners pursuant to Massachusetts General Laws, Chapter 85, Section 8, as amended.
- (f) Signs pertaining to public elections shall be allowed provided that none shall be erected earlier than sixty (60) days prior to the election and each shall be removed forthwith following the election, not to exceed five calendar days.

SECTION 14. SITE PLANS.

- 14.1. For the purpose of administering the provisions of this bylaw, and to ensure the most advantageous use of all properties within the same district, and for the reasonable protection of the legitimate interests of adjoining property owners, no building permit shall be issued for any building, structure or use for which a site plan is required by this bylaw, until a site plan, prepared by a licensed professional architect or engineer, has been submitted to and approved by the board or authority having jurisdiction of such permit or special permit (referred to elsewhere in this section as "the authority")
- 14.2. All site plans shall be submitted in triplicate, and shall be prepared in accordance with the rules and regulations of the authority governing site plans. Unless some particular provision is waived by the authority because of the minimal scale of the development, site plans shall be at a scale of 1" = 40', (2.54 cm = 12 m), and shall show, as a minimum, all existing and proposed buildings, structures, existing and proposed grades, parking areas and spaces as required under Section 12 of this bylaw, driveway openings, service areas, lighting, signs, refuse and other waste disposal, and facilities for surface water drainage, all proposed landscape features (such as fences, walks, planting areas, type, size and location of planting materials, methods to be employed for screening) and any existing building or other structure located at adjoining property within one hundred (100') feet (30.48 m) of the lot boundary lines of the development site, and any other information requested by the authority; provided that in any R-I development, the site plan may show the proposed building sites instead of the proposed buildings, in cases where there is only one (1) dwelling unit per lot.
- 14.3. The rules and regulations adopted under this section shall provide for procedures relative to notice and hearing, which shall be in substance similar to those for a definitive subdivision plan, and they shall be applicable in all respects to the review of a site plan under this section. Once approved, site plans may be modified with the approval of the authority, upon hearing with appropriate notice, unless the authority deems such modification to be insubstantial.
- 14.4. The rules and regulations adopted under this section shall also provide for reasonable development standards for parking areas in order to carry out the purposes of Section 12 of this bylaw, as well as the larger purposes of the bylaw generally. These standards may include dimensional requirements for spaces, aisles, maneuvering areas, access and egress; construction standards; landscaping; and other matters ordered to said purposes.
- 14.5. In approving or disapproving a site plan, the authority shall, as a minimum, take into consideration the following matters:
 - (a) Preservation of Landscape. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be such as not to be unharmonious with or detrimental to the neighborhood and the general appearance of the surrounding developed areas.
 - (b) Regulation of Development. Proposed development shall be related harmoniously to the terrain and to the use, scale and proportions of existing and proposed buildings in the vicinity that have functional or visual relationship to the proposed buildings.

- (c) Interrelationship of Buildings. The proposed buildings shall be related harmoniously to each other with adequate light, air, circulation, privacy, and separation between buildings where appropriate.
- (d) Open Space. Open space shall be located and designed with due regard to its visibility for persons passing the site or overlooking it from nearby properties, in order to add to the visual amenities of the vicinity.
- (e) Circulation. With respect to vehicular and pedestrian circulation, including entrances, ramps, walkways, drives and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls and mass transit facilities), width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community facilities, and arrangements of parking areas that are safe and Convenient and, insofar as practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties.
- (f) Surface Water Drainage. Special attention shall be given to proper site surface drainage, so that removal of surface waters will not adversely affect neighboring properties or any public storm drainage system. Where appropriate, storm water shall be removed from all roofs, canopies and paved areas, and provision shall be made for its transport away in an underground drainage system where required. Surface water in all paved areas shall be collected at intervals, so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved areas.
- (g) Utility Service. Electric, telephone, cable TV and other such lines and equipment shall be located underground, unless the Authority specifically finds in writing that due to the particular Circumstances of the proposed development, the public interest and convenience demand that this requirement be waived. The proposed method of sanitary sewage disposal and solid waste disposal from all buildings shall be indicated.
- (h) Signs. The size, location, design, color, texture, lighting and materials of all signs shall not detract from the use and enjoyment of proposed buildings and Structures and surrounding properties.
- (i) Special Features. Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous or objectionable in regard to the existing or contemplated environment and surrounding properties.
- (j) Screening. Screening consisting of a solid fence, wall, evergreen planting or other installation which in the discretion of the Authority is suitable, not less than six (6') feet in height unless specified otherwise by the Authority, shall be provided, erected and maintained where necessary in the discretion of the Authority in order to shield adjoining properties from business and light industrial uses of land.
- (k) Compliance with the Bylaw. Where specific standards are established for parking and loading spaces, lot size, yards, frontage, heights and coverage of buildings, the site plan shall comply with such standards, as well as all other provisions of this bylaw.

SECTION 15. GENERAL REGULATIONS

15.1. Removal of Earth.

15.1.1. No earth shall be removed from any parcel of land within the Town unless such removal (a) will constitute an exempt operation as hereinafter provided, or (b) is done pursuant to a special permit therefor issued by the Board of Selectmen.

15.1.2. The removal of earth in any of the following circumstances shall be an exempt operation:

- (a) The removal of not more than fifteen (15) cubic yards of earth in the aggregate in any year from one parcel of land; or of not more than 150 cubic yards of earth in the aggregate in connection with a building permit or subsurface septic system permit duly issued and on file for said parcel of land;
- (b) The transfer of material from one section of a parcel of land to another section of the same parcel, or to an adjacent parcel in the same ownership, incidental to the grading of such land or agricultural or similar uses, provided that this section shall not authorize the removal of earth material to sections of any such parcel which are outside the confines of the Town as part of an enterprise in the nature of a commercial earth removal operation;
- (c) The removal of material from land in use by the Town;

15.1.3. Nothing in the preceding subsection shall be construed to supersede or waive the requirements of any other law, bylaw or ordinance of the Town applicable by its terms to any activity which includes earth removal.

15.1.4. The grant of a special permit for earth removal shall be subject to the following limitations:

- (a) No permit shall be granted for operations to be carried on in the R-1 or R-2 district(s), excepting only in such districts the removal of material necessarily excavated in connection with the lawful construction of a building or buildings and/or accessory uses or structures, and/or a roadway or roadways where the aggregate removal is less than five thousand (5,000) cubic yards and is, in the case of a subdivision, in compliance with the requirements of a subdivision plan approved by the Planning Board. Special permits granted in connection with excavation in an approved subdivision may include conditions providing for control or supervision by the Planning Board, and may incorporate directly appropriate provisions from the Planning Board's rules and regulations adopted under the Subdivision Control Law.
- (b) No permit shall authorize the removal of loam, peat, organically enriched topsoils, or soils occurring naturally in A and B Soil Horizons as classified by the United States Department of Agriculture;
- (c) No permit shall authorize the crushing or processing of rock, or commercial blasting;

- (d) No permit shall authorize the removal of more than five thousand (5,000) cubic yards of earth from any parcel in any year.

15.1.5. The grant of special permits and the process of applying therefor shall be subject to the reasonable regulations of the Board as they shall be adopted and from time to time amended, and which may provide among other things for the following as safeguards to the neighborhood or the Town:

- (a) method of removal;
- (b) type and location of temporary structures;
- (c) hours of operation;
- (d) rules for transporting the material through the Town;
- (e) area and depth of excavation;
- (f) distance of excavation to street and lot lines;
- (g) steepness of slopes excavated;
- (h) re-establishment of ground levels and grades;
- (i) provision for temporary and permanent drainage;
- (j) disposition of boulders and tree stumps;
- (k) replacement of loam over the area of removal;
- (l) planting of the area to suitable cover, including trees;
- (m) the duration of any permit.

15.1.6. No permit shall be granted hereunder by the Board of Selectmen unless the Board shall find that operations conducted under such permit, subject to the conditions imposed by the permit, will not be contrary to the best interests of the Town. For this purpose, an operation shall be considered contrary to the best interests of the Town which (1) will be injurious or dangerous to the public health or safety, (2) will produce noise, dust, or other effects observable at the lot lines in amounts seriously objectionable or detrimental to the normal use of the adjacent property or public ways, (3) will result in transportation of materials on ways giving access to the land in question which will cause traffic congestion or hazards, (4) will result in transportation which will cause undue injury to the roadway surfaces, (5) will result in change in topography and cover which will be disadvantageous to the most appropriate use of the land on which the operation is conducted, or (6) will have a material adverse effect on the health or safety of persons living in the neighborhood or on the-use or amenities of adjacent land.

15.1.7. The Board of Selectmen may, in its discretion in granting any permit, require a bond or other security to insure compliance with the conditions stipulated in the permit, in such amount as the Board deems sufficient.

15.1.8. The members of the Board of Selectmen or their agents may enter upon the premises covered by any permit from time to time to inspect and insure proper conduct of the work. Upon petition of the owner of the premises, permit holder or abutters or upon its own initiative, the Board of Selectmen may hold a new hearing and reissue or modify the permit, or order the revocation of or suspension of a permit if the conditions provided in the permit are not complied with; but neither the permit holder in such case nor any surety on a bond furnished to secure compliance with the conditions of the permit shall be relieved of his obligations thereunder.

15.1.9. Except as provided in Section 15.1.2.(d), no approval of a subdivision plan by the Planning Board shall be construed as authorizing the removal of earth material from any parcel of land except pursuant to the provisions of this Section.

15.2. Floodplain District

15.2.1. The Floodplain District is herein established as an overlay district. The uses permitted in the underlying district are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in floodplains. The Floodplain District includes all special flood hazard areas designated as Zone A, AI - A30 on the Dunstable Flood Insurance Rate Maps (FIRM), and the Flood Boundary together with the revision to the Flood Insurance Rate Maps (FIRM) of July 5, 1982, prepared by the Federal Emergency Management Agency, effective November 9, 1999, all on file with the Town Clerk, Planning Board and Building Inspector.

15.2.2. Development Regulations. The following requirements apply in the Floodplain District:

- (a) Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Inspector for its reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code.
- (b) No building or structure shall be erected in, nor shall fill be placed within the 100-year floodplain as defined in Section 15.2.1. of this Bylaw, provided that, upon the issuance of a Special Permit by the Planning Board, placement of fill and related activity may be allowed subject to the following requirements:
 - (i) The Board finds that such placement of fill is in all regards in compliance with the Commonwealth of Massachusetts Wetlands Protection Act as in force and effect and the Town of Dunstable Wetlands Protection Bylaw;
 - (ii) The proposed use shall comply in all respects with the provisions of the underlying district;
 - (iii) Within ten (10) days of receipt of the application, the Board shall transmit one copy of the proposal plan to each of the Conservation Commission, the Board of Health and the Building Inspector; final action shall not be taken until reports have been received from the above Boards or officials, or until thirty five (35) days have elapsed without receipt thereof;

- (iv) Certification by a registered professional engineer is provided by the applicant, demonstrating that such filling shall not result in any increase in flood levels during the occurrence of the one-hundred-year flood; no such filling nor any new construction substantial improvement or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed filling and development when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood at any point in the Town of Dunstable;
- (v) The Board may specify such additional requirements and conditions as it finds necessary to protect the health, safety and welfare of the public and the occupants of the proposed fill area.
- (c) Construction of ways, public or private, and whether or not subject to Subdivision Control, shall be reviewed to determine whether such development will be reasonably safe from flooding. If any part of a subdivision proposal or other new development involving a way is located within the Floodplain District established under this Section, it shall be designed to assure that:
 - i. the proposal is designed consistent with the need to minimize flood damage; and
 - ii. all public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage; and
 - iii. adequate drainage systems shall be provided to reduce exposure to flood hazards.

The requirements of this subsection shall be enforced by the Planning Board, as to subdivisions, or by the Building Inspector, as to other development.

- (d) All proposed water and sewer facilities to be located in the Floodplain District established under this Section shall be reviewed by the Board of Health for the following determination and certification:
 - i. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system; and
 - ii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

15.3. Uses Accessory to Scientific Endeavor. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific development or related production, may be permitted upon the issuance of a special permit by the Board of Appeals, provided said Board finds that the proposed accessory use does not substantially derogate from the public good. Nothing in this subsection 15.3. shall be construed to enlarge the availability of principal activities permitted in any zoning district of the Town not otherwise provided in this bylaw.

SECTION 16. ADMINISTRATION. The provisions of this bylaw shall be administered and enforced by the Building Inspector, in accordance with the provisions of Massachusetts General Laws, Chapter 40A.

16.1. Building Permits:

- (a) No application to the Building Inspector for a building permit shall be approved unless the plans, specifications and intended use set forth in said application conform in all respects with this bylaw, or unless the applicant is otherwise entitled to such permit under applicable law.
- (b) Any application for a permit for a new or altered use of land or structure, or for a building permit for the construction, reconstruction, alteration or relocation of a building, shall be accompanied by plans and specifications with specific and accurate references to the subject lot as recorded in the Registry of Deeds, or as otherwise shown or defined of record, in cases where a deed reference is inapplicable, and showing the actual shape and dimensions of the lot to be built upon or to be assigned to the proposed use, the names of all present owners of record, the exact location of all buildings or structures already on the lot, all abutting streets, the lines within which all buildings or structures are to be erected, and such other information as may be necessary to provide for the administration of this bylaw.
- (c) Two (2) copies of the plan of the lot shall be filed, and one (1) copy referred by the Building Inspector to the Planning Board.
- (d) A record of all such applications, plans, building permits and certificates of occupancy shall be kept on file by the Building Inspector, together with a record of non-conforming uses and buildings or structures.

16.2. Certificate of Occupancy. Prior to occupancy of any new structure, or any structure that has been renovated, repaired or restored after becoming uninhabitable for any reason, a certificate of occupancy from the Building Inspector shall be required. No certificate of occupancy shall be signed or issued by the Building Inspector unless the premises, building or structure, and its uses and accessory uses, comply in all respects with this bylaw or any superseding applicable law.

16.3. Violations and Penalty. Whoever violates any provision of this bylaw shall be punished by a fine not exceeding Three Hundred (\$300.00) Dollars for each offense. Each day or portion thereof that such violation continues shall constitute a separate offense.

SECTION 17. BOARD OF APPEALS.

17.1. Members.

- (a) A Board of Appeals is hereby established in accordance with Chapter 40A of the Massachusetts General Laws, as the same may be amended. Said board shall consist of five (5) members, each appointed by the Board of Selectmen. In order to provide for a staggering of the terms of office of the members of the Board, the initial Board shall consist of members whose terms shall be for one (1), two (2), three (3), four (4) and five (5) years, respectively, with the term of any subsequent appointee to be for five (5) years. In addition, there shall be at least two (2), but no more than three (3) associate members, each appointed by the Board of Selectmen, their terms of office to be such that the term of one associate member shall expire each year. Any vacancy in a regular or associate position shall be filled as in an original appointment, for the remainder of the unexpired term.
- (b) The Board of Appeals shall elect annually a Chairman from its own number and a Clerk. The Chairman, in addition to the powers granted to the Chairman under the rules adopted by the Board of Appeals, shall have the power to designate one or more associate members to sit on the Board of Appeals in case of absence, declination, conflict of interest or other inability to act on the part of any member or members thereof; or in the event of a vacancy, until said vacancy is filled in the manner provided in this section.

17.2. Powers of the Board.

- (a) The Board of Appeals, which shall be the zoning board of appeals and which shall also be the Board of Appeal under the Building Laws, shall have all the powers of a board of appeals under Chapter 40A of the General Laws and as provided under this bylaw.
- (b) The Board of Appeals shall adopt such rules governing its procedure and the conduct of its business and shall exercise such powers and duties as are consistent with Chapter 40A of the General Laws,, as may be from time to time amended. Said rules of procedure shall include provisions for submission of petitions in writing, for advertising and holding hearings, for keeping records of proceedings, for recording the vote of each member upon each question, for setting forth the reason or reasons for each decision, for notifying the parties in interest, including the Building Inspector and the Planning Board, as to each decision, and for filing decisions with the Town Clerk. Said rules may in addition provide for such other functions and procedures, including the granting of certain powers to the Chairman and Clerk, as shall suit the purposes of the Board.
- (c) In addition to the generality of the sections of this bylaw regarding the powers of the Board of Appeals, it shall hear and decide such requests for special permits as are specifically conunitted to its jurisdiction hereinbefore. Before granting any special permit, the Board of Appeals shall determine that the use for which such permit is requested is in harmony with the general purposes and intent of this bylaw, and that the proposed use is not detrimental or injurious to persons or property. In any case in which the Board of Appeals disagrees with the written advice of the Planning Board or the Conservation Commission, it shall State its reasons for so doing in writing.

- (d) The Board of Appeals shall hear and decide requests for variance from the terms of this bylaw, in accordance with provisions of the Massachusetts General Laws, as they may be from time to time amended. Variances for use in any district, in particular, may be authorized subject to the strict requirements of applicable law.
- (e) In granting any special permit under this bylaw, or variance from the provisions thereof, the board may impose, as a condition of its decision, such restrictions as to manner and duration of use as will in its opinion safeguard the legitimate use of the property in the neighborhood and the health and safety of the public, and conform to the intent and purpose of this bylaw, and such restrictions shall be stated in writing by the Board and made part of the permit, or variance as the case may be; but no variance shall be conditioned on the continued ownership by any owner of the land or structures to which the variance pertains.

SECTION 18. PROCEDURAL MATTERS.

- 18.1. All procedural matters arising under this bylaw, including amendments, administration, enforcement, interpretation, notice, and other matters, not specifically provided for herein, shall be governed by appropriate provisions of the Massachusetts General Laws relative to zoning or land use.
- 18.2. In the event that any board or authority shall fail to act on any application, appeal or petition, such that under applicable law, the application, appeal or petition is deemed approved, then the same shall be approved and granted, subject to the following requirements:
 - (a) The petitioner, after the expiration of the period or periods provided by law, shall file with the Town Clerk a copy of his petition, together with an affidavit stating the date of the public hearing or filing as the case may be, and the failure of the authority in question to render a decision or otherwise act as required by law within the required period.
 - (b) Upon receipt of the petition and affidavit, the Town Clerk shall forthwith give notice of the filing to those persons entitled to a notice of the decision under the applicable provisions of the Massachusetts General Laws. The filing of a petition and affidavit in the office of the Town Clerk shall be deemed the equivalent of the filing of a decision, for purposes of judicial appeals provided for under Chapter 40A, section 17 of the Massachusetts General Laws, as the same may be amended.
 - (c) If no appeal is taken within the required statutory period, then the Town Clerk shall furnish the petitioner with a certified copy of the petition and affidavit, together with a certificate that no appeal has been filed, all of which shall be recorded in the manner prescribed under Chapter 40A, section 11, as the same may be amended, in lieu of the documents required to be recorded under that section.
- 18.3. Special permits shall lapse within a period of eighteen (18) months from the grant thereof, plus such time as is required to pursue or await the determination of a judicial appeal under the General Laws, if a substantial use has not sooner commenced, except for good cause or, in the case of a permit for construction, if construction has not begun by such date, except for good cause.
- 18.4. The failure of any board or agency to which a petition for a special permit is referred for recommendation and/or a report to make such recommendation and/or the report within thirty-five (35) days of receipt by such board or agency of the petition shall be deemed lack of opposition thereto.

SECTION 19. VALIDITY AND CONFLICT OF LAWS. Where any provision of this bylaw imposes a greater restriction upon the development or use of land or structures than is imposed by other bylaws, the provisions of this bylaw shall control. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

SECTION 20. DEFINITIONS. In this bylaw, the following terms shall have the meanings described below:

- 20.1. Accessory Use or Structure. A use or structure on the same lot with, and of a nature customarily incidental and secondary to, the principal use or structure.
- 20.2. Attached Building. A building separated from another building on one or both sides either by a vertical party wall or walls or by a contiguous wall or walls, having no doors, or passageways through which persons, materials or light may pass.
- 20.3. Boarding House. See Rooming House.
- 20.4. Building. A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition "roof" shall include any awning or any similar covering, whether or not permanent in nature.
- 20.5. (Reserved for "Cluster Development")
- 20.6. Cooking Facilities. Any facilities, including without limitation a hot plate or portable oven, which permit the occupant of a building to prepare or serve hot meals in the building on a regular basis.
- 20.7. Dwelling or Dwelling House. A building which is designed or occupied as a residence and contains one or more dwelling units, but not including a trailer or mobile home, however mounted.
- 20.8. Dwelling Unit. A portion of a building occupied or suitable for occupancy as a residence and arranged for the use of one or more individuals living as a family or single housekeeping unit, with its own cooking, living, sanitary and sleeping facilities, but not including trailers or mobile homes, however mounted, or commercial accommodations offered for periodic occupancy.
- 20.9. Family. Any number of persons related to one another by blood, adoption, foster home placement, or marriage plus not more than two (2) additional persons, all residing together as a single, integral housekeeping unit, or where such persons are not related to one another by blood, adoption, foster home placement, or marriage, not more than three (3) persons residing together as a single, integral housekeeping unit.
- 20.10. Flood Plain District. An area established as an overlay district as indicated on the Town of Dunstable Flood Insurance Rate Maps (FIRM) and the flood boundary and flood insurance maps developed by the Federal Emergency Management Agency (FEMA) and Federal Insurance Administration.
- 20.11. Land Unsuitable for Development. The following land shall be defined as land unsuitable for development:
 - a. Wetlands as defined in the Dunstable General Wetlands Bylaw and Chapter 131, Section 40A of the Massachusetts General Laws and the rules and regulations adopted thereunder, all as amended;

- b. Land located within any Zone A as shown on the most recent FEMA Flood Insurance Rate Maps;
- 20.12. Lot. An area of land in uniform ownership with definite boundaries ascertainable by recorded deed or plan.
- 20.13. Public. The word "public" means the Town of Dunstable, Commonwealth of Massachusetts, United States Government or an agency thereof.
- 20.14. Recorded. The due recording in the Middlesex Northern District Registry of Deeds, or, as to registered land, the due filing in the Middlesex Northern District Land Registration Office.
- 20.15. Rooming or Boarding House. A dwelling house in which the person or persons principally resident therein provide eating and/or sleeping accommodations for one or not more than three (3) paying guests who are not provided with separate cooking facilities separate from the cooking facilities ordinarily used by the principal residents.
- 20.16. Sign. The word "sign" shall include any letter, word, symbol, drawing, picture, design, device, flag (except any flag authorized by law to designate a governmental unit), banner, pennant, article and object that advertises, promotes, calls attention to or indicates any premises, person or activity, whatever the nature of the material and manner of composition or construction, but excluding integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
- 20.17. Special Permit. A use by special permit is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood would promote the public health, safety, welfare, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as special permits, if specific provision for such special permits is made in this zoning bylaw.
- 20.18. Street, Road or Way. An area of land dedicated, approved by the planning Board, or legally open for public travel under at least one of the following classifications:
- (a) A public way duly laid out by the Town of Dunstable, the Middlesex County Commissioners, the Commonwealth of Massachusetts, or other governmental body with jurisdiction and competent authority in the matter, or a way which the Dunstable Town Clerk certifies is maintained by public authority and used as a public way excluding, however, limited access highway; or
 - (b) A way shown on a definitive plan approved and endorsed in accordance with the Subdivision Control Law; or
 - (c) A way in existence prior to said Subdivision Control Law having become effective in the Town of Dunstable, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected

thereon.

- 20.19. Structure. Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, athletic courts, tents, antennae of all types, artificial pools. The term structure shall be construed to include the words "or portion thereof".
- 20.20. Wetlands: Land regulated by or protected under G.L. c. 131, §. 40 and 40A; or The General Wetlands Bylaw of the Town of Dunstable, including temporary or intermittent manifestations thereof.

Section 21. Commercial Telecommunication Towers

- A. Purpose: The purposes of this section include: minimizing adverse impacts of wireless communications facilities, satellite dishes and antennas; minimizing the overall number and height of such facilities to only what is essential, and promoting shared use of existing facilities to reduce the need for new facilities.
- B. General Requirements:
1. No wireless communications facility, which shall include monopoles, satellite dish(es) over three (3) feet in diameter or antenna, shall be erected or installed except in compliance with the provisions of this Section. In all cases, a Special Permit is required from the Planning Board (the "Board"). Any proposed extension in the height, addition of cells, antenna, or panels, or construction of a new or replacement of a facility or revision to access shall be subject to a new application for a Special Permit. However, the phrase "wireless communications facility" shall not include private non-commercial towers, or other structures described in Section 6.1 (f) of this bylaw, nor shall it include private television antennae installed and used for residential dwellings.
 2. Only free-standing monopoles, with associated antenna and/or panels are allowed as specified in Paragraph D. below. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed unless the Board determines that based on specific findings of fact that a monopole is not suitable for the location and that the best interest of the Town will be served by the construction of a lattice style tower.
 3. Wireless communications facilities shall be located in Tower Overlay Districts and shall be suitably screened from abutters and residential neighborhoods, and the public way.
 4. Structures shall be removed within one (1) year of cessation of use. Certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and the American national Standards Institute and required maintenance shall be filed with the Building Commissioner by the Special Permit holder if requested by the Building Commissioner.
 5. The Board shall require the applicant to post a bond acceptable to the Town in an amount sufficient to pay the cost for the removal of the facility. The value of the bond will be adjusted every two years based on the construction cost index published by American City & County magazine.
- C. Application Process: All applications for wireless communication facilities, antenna and satellite dishes shall be made and filed on the applicable application form in compliance with the Special Permit requirements of the Board.
1. In addition to the Special Permit Application and site plan submittal requirements the following items shall be submitted with the application for a Special Permit.
 2. A color photograph or rendition of the proposed monopole or tower with its antenna

- and/or panels. A rendition shall also be prepared illustrating a view of the monopole, tower, dish, and antenna from the nearest street or streets with a visual impact analysis statement.
3. The following information prepared by one or more professional engineers:
 - a description of the monopole and the technical, economic and other reasons for the proposed location, height and design;
 - confirmation that the monopole complies with all applicable Federal and State standards;
 - a description of the capacity of the monopole including the number and type of panels, antenna, and/or transmitter receivers that it can accommodate and the basis for these calculations.
 4. If applicable, a written statement that the proposed facility complies with, or is exempt from applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communication Commission (FCC), Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health.
- D. Design Guidelines: The following guidelines shall be used when preparing plans for the siting and construction of all wireless communications facilities.
1. All monopoles shall be designed to be constructed at the minimum height necessary to accommodate the currently proposed and anticipated future use. The setback of a monopole from the property line of the lot on which it is located shall be at least equal to the height of the monopole and any antenna plus twenty (20) feet.

No monopole, or attached accessory antenna on a monopole, shall exceed (120) feet in height as measured from ground level at the base of the pole. No monopole shall be constructed which requires guy wires. Monopoles shall not be located on buildings unless the Board makes a determination with specific findings of fact that such location on a building is in the best interest of the Town. Applicants are encouraged to locate antennas inside suitable existing buildings to minimize the visual impact on the surrounding area.
 2. All wireless communications facilities shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighborhoods and other areas of Town shall be as limited as possible. All monopoles and dishes shall be painted or otherwise colored so they will blend in with the landscape or the structure on which they are located. A different coloring scheme shall be used to blend the structure with the landscape below and above the tree or building line.
 3. Satellite dishes and/or antenna shall be situated on or attached to a structure in such a manner that they are screened, preferably not being visible from abutting streets. Free standing dishes or antenna shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to limit the need to remove existing vegetation. All equipment shall be colored, molded, and or installed to blend into the structure and/or the landscape.

4. Wireless communications facilities shall be designated to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of facilities, which will be required to be located within the community.
5. An applicant proposing a wireless communications facilities shall prove to the satisfaction of the Board that the visual, economic and aesthetic impacts of the facility on abutters will be minimal. And, that the facility must be located at the proposed site due to technical, topographical or other unique circumstances. Further, the monopole shall be located at a minimum of 500 feet from the nearest residential structure unless waived by the owner(s) of said residential structure. Application shall include a list of other sites considered and reason for rejection.
6. Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the Town and shall not be razor wire or barbed wire.
7. There shall be no signs, except for announcement signs, no trespassing signs, and a required sign giving a phone number where the owner can be reached on a twenty-four (24) hour basis. All signs shall conform to the Town Zoning Sign By-Law.
8. Night lighting of towers shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.
9. There shall be a minimum of one (1) parking space for each facility, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment. Any buildings or enclosures shall not be used as an office, substation, or other similar use.

E. Special Use Permit Review:

1. Application for Special Permits shall be approved or approved with conditions if the petitioner can fulfill the requirements of these regulations to the satisfaction of the Board.
2. Applications for Special Permits may be denied if the petitioner cannot fulfill or address the requirements of these regulations to the satisfaction of the Board.
3. When considering an application for a wireless communication facility, the Board shall place great emphasis on the proximity of the facility to residential dwellings and its impact on these residences. New facilities shall only be considered after a finding that existing (or previously approved) facilities cannot accommodate the proposed user(s). The Board may require, for new facilities, an agreement and/or condition for co-use by the other users of such facilities.
4. When considering an application for an antenna or dish proposed to be placed on a structure, the Board shall place great emphasis on the visual impact of the unit from the abutting neighborhoods and street(s).

Section 23. Mixed Use District.

A. Purposes:

The purposes of the Mixed Use District (MUD) are to:

- a. allow for greater variety and flexibility in development forms;
- b. encourage the development of affordable housing, rental and ownership;
- c. reduce traffic congestion and air pollution by providing opportunities for housing and employment in close proximity;
- d. encourage more compact and efficient developments.

B. General Description:

A "Planned Unit Development for Mixed Uses" shall mean development containing a mixture of residential uses and building types, including single family and multifamily dwellings, and other uses, as listed under the category "Uses Allowed within a Planned Unit Development for Mixed Uses". A Planned Unit Development for Mixed Uses may be allowed by Special Permit of the Planning Board. The Special Permit may allow the development to exceed the normal density requirements for the district to the extent authorized by this Bylaw provided that standards for the provision of affordable housing and other standards specified herein are met.

C. Uses Allowed within a Planned Unit Development for Mixed Uses:

Planned Unit Developments for Mixed Uses shall be permitted in the Mixed Use District only upon issuance of a Special Permit and Site Plan Approval from the Planning Board.

In a Planned Unit Development for Mixed Uses, the following uses may be allowed:

1. Two-family dwellings;
2. Townhouses, i.e., multiple single family dwellings connected by one or more walls, provided they meet the requirements of affordable housing, which shall be defined as housing meeting the requirements of Section 6.7.5.(O) of this Bylaw;
3. Multifamily dwellings;
4. Business uses which are permitted in the B-1 district;
5. Senior Center;
6. Affordable housing for the elderly (over 55 years).

D. Density and Dimensional Regulations:

The following density and dimensional requirements shall apply to any project in the MUD, subject to adjusted requirements as stated for projects including affordable housing as defined hereinabove:

1. The minimum area allocation for each dwelling unit shall be five thousand (5,000) square feet;
2. The minimum total land area for a Planned Unit Development shall be (10) acres subject to a reduction of up to twenty (20%) percent in the discretion of the Planning Board for projects including affordable housing ;
3. There shall be no frontage requirements within a Planned Unit Development, provided that the applicant demonstrates to the Planning Board satisfactory legal access to the premises;
4. Minimum setback, rear and side yard requirements specified in the Table of Dimensional Requirements (Section 11 of this Bylaw) shall pertain only to the periphery of the Planned Unit Development;

5. Dwellings shall make up a minimum of seventy-five percent (75%) of the floor area of development in a Planned Unit Development; the balance of the area shall be business use;
6. Individual commercial areas shall not exceed one thousand five hundred (1,500) square feet each.

E. Utility, Parking, Landscaping and Open Space Requirements:

1. Planned Unit Developments for Mixed Uses must meet the utility, parking, landscaping and open space requirements in Section 6.6 of The Dunstable Zoning Bylaw.
2. A natural protective buffer shall be provided around any water body. Said buffer shall conform to the development and not exceed 200 (two hundred) feet, provided that, in special circumstances, the Dunstable Planning Board may allow a lesser buffer at certain locations upon a demonstration by the applicant providing clear evidence that with appropriate safeguards the water body can be adequately protected. The Planning Board may impose limitations on any development within such buffer, and strict limitation shall be imposed within the 100 (one hundred) feet of the buffer nearest to the water body.